

1 UNITED STATES BANKRUPTCY COURT

2 SOUTHERN DISTRICT OF NEW YORK

3 Case No. 19-23649 (RDD)

4 - - - - - x

5 In the Matter of:

6

7 PURDUE PHARMA L.P.,

8

9 Debtor.

10 - - - - - x

11

12 United States Bankruptcy Court

13 300 Quarropas Street, Room 248

14 White Plains, NY 10601

15

16 May 26, 2021

17 10:05 AM

18

19

20

21 B E F O R E :

22 HON ROBERT D. DRAIN

23 U.S. BANKRUPTCY JUDGE

24

25 ECRO: ART

1 HEARING re PURDUE PHARMA LP HEARING WILL BE CONDUCTED USING
2 ZOOM FOR GOVERNMENT VIDEO CONFERENCING. THOSE THAT REQUIRE
3 ACTIVE PARTICIPANT ACCESS TO THE HEARING MUST EMAIL CHAMBERS
4 AT RDD.CHAMBERS@NYSB.USCOURTS.GOV FOR ZOOM ACCESS
5 CREDENTIALS

6
7 HEARING re Notice of Agenda/ Agenda for May 26, 2021
8 Disclosure Statement Hearing Statement /Notice that
9 Disclosure Statement Hearing Scheduled for May 26, 2021 at
10 9:00 a.m. will be Conducted through Zoom (related
11 document(s)2882)

12
13 HEARING re Motion to Approve (I) the Adequacy of Information
14 in the Disclosure Statement, (II) Solicitation and Voting
15 Procedures, (III) Forms of Ballots, Notices and Notice
16 Procedures in Connection Therewith, and (IV) Certain Dates
17 with Respect Thereto Letter from Aaron R. Stimus Objecting
18 to Certain Claims Filed by James I. McClammy on behalf of
19 Purdue Pharma L.P. (ECF #2627)

20
21 HEARING re Objection to document 2494 received 4/12/2021
22 (related document(s)2494, 2489) filed by Jeanette Tostenson.
23 (ECF #2634)

24
25 HEARING re Objection to Purdue Pharma L.P. Proposed

1 Bankruptcy Reconstruction Plan (re: claim 41399; Amended
2 615834) filed by Kevin Lee Mckenney Sr. (ECF #2648)

3
4 HEARING re Letter Re: Reposted Letter from Colonel Ralph
5 Olsen M.D. Filed by Ralph Olsen M.D. - Colonel Army of the
6 US Retired. (ECF #2652)

7
8 HEARING re Objection to Purdue Pharma's Plan of
9 Reorganization filed by Susan D. Haswell. (ECF #2653)

10
11 HEARING re Letter for Reconsideration Filed by Scotti
12 Madison (ECF #2654)

13
14 HEARING re Objection to Disclosure Statement of Purdue
15 Pharma LP and its Affiliated Debtors (related
16 document(s)2487, 2488) filed by Paul Kenan Schwartzberg on
17 behalf of United States Trustee. (ECF #2686)

18
19 HEARING re Objection to Motion by Debtor's to Approve
20 Disclosure Statement (related document(s)2489) filed by
21 Aaron R. Cahn on behalf of State of West Virginia, ex. rel.
22 Patrick Morrissey, Attorney General. (ECF 2703)

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1 HEARING re Objection to Disclosure Statement By Independent
2 ER Physician filed by Paul S Rothstein on behalf of Paul S
3 Rothstein.(ECF #2708)

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5 HEARING re Objection to the Debtors' Disclosure Statement
6 Motion (related document(s)2487, 2488) filed by Isley
7 Markman Gostin on behalf of Steadfast Insurance Company,
8 American Guarantee and Liability Insurance Company,
9 Navigators Specialty Insurance Company. (ECF #2710)

10

11 HEARING re Objection to Motion filed by Mark Stein on behalf
12 of Bridge House Corporation. (ECF #2711)

13

14 HEARING re Objection to Disclosure Statement (related
15 document(s)2488) filed by Corey Moll on behalf of Carpenter
16 Health Network. (ECF #2712)

17

18 HEARING re Objection to Disclosure Statement (related
19 document(s)2488) filed by Corey Moll on behalf of City of
20 Chillicothe, Ohio. (ECF #2713)

21

22 HEARING re Objection to Disclosure Statement (related
23 document(s)2488) filed by Corey Moll on
24 behalf of City of Covington, Louisiana. (ECF #2714)

25

1 HEARING re Objection to Disclosure Statement (related
2 document(s)2488) filed by Corey Moll on behalf of Four Winds
3 Tribe Louisiana Cherokee. (ECF #2715)

4

5 HEARING re Objection to Disclosure Statement (related
6 document(s)2488) filed by Corey Moll on behalf of Parish of
7 DeSoto. (ECF #2716)

8

9 HEARING re Objection to Disclosure Statement (related
10 document(s)2488) filed by Corey Moll on behalf of
11 Northwestern Band of the Shoshone Nation. (ECF #2717)

12

13 HEARING re Objection to Disclosure Statement (related
14 document(s)2488) filed by Corey Moll on behalf of Dr.
15 Gregory Fernandez in his Official Capacity as the Coroner of
16 St. Bernard Parish. (ECF #2718)

17

18 HEARING re Joint Objection to Motion Joint Objection Of
19 Distributors, Manufacturers And Pharmacies To Debtors'
20 Motion For An Order Approving Disclosure Statement (related
21 document(s)2489) filed by Barry Z. Bazian on behalf of
22 Allergan Finance LLC, AmerisourceBergen Drug Corporation,
23 CVS Caremark Part D Services, L.L.C., Johnson & Johnson,
24 McKesson Corporation, Sun Pharmaceuticals Canada Inc., Teva
25 Pharmaceuticals USA, Inc., Walgreen Co. and certain

1 corporate affiliates and subsidiaries, Walmart, Inc. (ECF
2 #2719)
3
4 HEARING re Statement (Supplement to Johnson & Johnson and
5 Related Entities Joinder to Distributors', Manufacturers'
6 and Pharmacies' Joint Objection to Debtors' Motion for an
7 Order Approving Disclosure Statement) (related
8 document(s)2489, 2719) filed by Adam P. Haberkorn on behalf
9 of Alza Corporation, Janssen Ortho LLC, Janssen
10 Pharmaceutica, Inc. n/k/a Janssen Pharmaceuticals, Inc.,
11 Janssen Pharmaceuticals, Inc., Johnson & Johnson, Ortho-
12 McNeil-Janssen Pharmaceuticals, Inc. n/k/a Janssen
13 Pharmaceuticals, Inc. (ECF #2722)
14
15 HEARING re Objection to Motion to Approve Adequacy of
16 Information in Disclosure Statement, Objection to Motion for
17 Order Establishing Confirmation Schedule (related
18 document(s)2536, 2489) filed by Eric Fisher on behalf of
19 Baltimore City Board of School Commissioners, Board of
20 Chicago School District No. 299, Board of Education
21 of East Aurora School District 131, Board of Education of
22 Miami-Dade County Public Schools, Board of Education of
23 Thornton Fractional Township High School District
24 215, Board of Education of Thornton Township High School
25 District 205. (ECF #2720)

1 HEARING re Statement (Supplement to Johnson & Johnson and
2 Related Entities Joinder to Distributors', Manufacturers'
3 and Pharmacies' Joint Objection to Debtors' Motion for an
4 Order Approving Disclosure Statement) (related
5 document(s)2489, 2719) filed by Adam P. Haberkorn on behalf
6 of Alza Corporation, Janssen Ortho LLC, Janssen
7 Pharmaceutica, Inc. n/k/a Janssen Pharmaceuticals, Inc.,
8 Janssen Pharmaceuticals, Inc., Johnson & Johnson, Ortho-
9 McNeil-Janssen Pharmaceuticals, Inc. n/k/a Janssen
10 Pharmaceuticals, Inc. (ECF #2722)

11
12 HEARING re Objection to Motion by Debtor's to Approve
13 Disclosure Statement and Joining West Virginia's Objection
14 to Same see ECF 2703 (related document(s)2489) filed by
15 Amanda Peterson on behalf of Barbour County. (ECF #2 723)

16
17 HEARING re Opposition Joinder to Objection to Debtors'
18 Motion to Approve Disclosure Statement (related document(s)
19 2703, 2489, 2488) filed by Hunter J. Shkolnik on behalf of
20 Uphur County Commission, Randolph County Commission,
21 Doddridge County Commission, Marion County Commission,
22 Wetzel County Commission, Tyler County Commission,
23 Ohio County Commission, Marshall County Commission, Lewis
24 County Commission, Monongalia County Commission, Hancock
25 County Commission, Brooke County Commission. (ECF #2725)

1 HEARING re Objection to Disclosure Statement (related
2 document(s)2488) filed by Justin M Ellis on
3 behalf of The Cherokee Nation. (ECF #2730)

4

5 HEARING re Objection to Motion to the disclosure statement
6 and the plan generally (related document(s)2494) and
7 (related document(s)2489) filed by Patsy Newmeyer.
8 (ECF #2742)

9

10 HEARING re Objection to Motion to the disclosure statement
11 and the plan generally (related document(s)2494) and
12 (related document(s)2489) filed by Maria Luisa C. Pena Wife,
13 Executor of the Francisco I. Pena MD Estate. (ECF #2743)

14

15 HEARING re Objection to Disclosure Statement Ad Hoc
16 Committee on Accountability Objection to the Disclosure
17 Statement and the First Amended Disclosure Statement for
18 Chapter 11 Plan of Purdue Pharma, L.P., et al. (related
19 document(s)2 731, 2 734) filed by Paul A. Rachmuth on
20 behalf of Ad Hoc Committee on Accountability. (ECF #2745)

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1 HEARING re Objection NAS AD HOC COMMITTEE'S LIMITED
2 OBJECTION TO DISCLOSURE STATEMENT AND SOLICITATION
3 PROCEDURES MOTION (related document(s)2734, 2489) filed by
4 Scott S. Markowitz on behalf of Ad Hoc Committee of NAS
5 Babies. (ECF #2746)

6
7 HEARING re Response / Joinder to State of West Virginias
8 Objection to Debtors Motion to Approve Disclosure Statement
9 (related document(s)2703) (ECF #2749)

10
11 HEARING re Objection/ THE AD HOC GROUP OF NON-CONSENTING
12 STATES OBJECTION TO THE DEBTORS MOTION TO APPROVE (I) THE
13 ADEQUACY OF INFORMATION IN THE DISCLOSURE STATEMENT, (II)
14 SOLICITATION AND VOTING PROCEDURES, (III) FORMS OF BALLOTS,
15 NOTICES AND NOTICE PROCEDURES IN CONNECTION THEREWITH, AND
16 (IV) CERTAIN DATES WITH RESPECT THERETO (related
17 document(s)2734, 2489) filed by Andrew M. Troop on behalf of
18 Ad Hoc Group of Non-Consenting States. (ECF #2762)

19
20 HEARING re Objection to Motion /Object to the Current
21 Restructuring Deal Purdue Pharma has Presented (related
22 document(s)2494) (related document(s)2489) filed by Jeanette
23 Tostenson (ECF #2766)

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1 HEARING re Objection to Motion /Objecting to the Disclosure
2 Statement (related document(s)2494) (related
3 document(s)2489) filed by Kelvin X Singleton. (ECF #2767)
4

5 HEARING re Supplemental Objection to Motion to Approve
6 Adequacy of Information in Disclosure Statement, Objection
7 to Motion for Order Establishing Confirmation Schedule
8 (related document(s)2536, 2489) filed by Eric Fisher on
9 behalf of Baltimore City Board of School Commissioners,
10 Board of Chicago School District No. 299, Board of Education
11 of East Aurora School District 131, Board of Education of
12 Miami-Dade County Public Schools, Board of Education of
13 Thornton Fractional Township High School District
14 215, Board of Education of Thornton Township High School
15 District 205 (ECF #2773)
16

17 HEARING re Supplemental Objection to Disclosure Statement by
18 Independent ER Physician filed by Paul S Rothstein on behalf
19 of Paul S Rothstein. (ECF #2794)
20

21 HEARING re Objection to Motion /Debtors Motion to Approve
22 (I) the Adequacy of Information in the Disclosure Statement,
23 (II) Solicitation and Voting Procedures, (III) Forms of
24 Ballots, Notices and Notice Procedures in Connection
25 Therewith, and (IV) Certain Dates with Respect Thereto

1 (related document(s)2489) filed by Jonathan C Lipson on
2 behalf of Peter Jackson. (ECF #2819)

3
4 HEARING re Letter /Objection Letter, Filing and Reasoning
5 (related document(s)2645, 2627) Filed by Aaron R. Stimus.
6 (ECF #2822)

7
8 HEARING re Objection to Disclosure Statement Second Suppl to
9 Objection by Dr. Michael Masiowski Indep ER Physician filed
10 by Paul S Rothstein on behalf of Paul S Rothstein.
11 (ECF #2828)

12
13 HEARING re Response Reply by the Side A Initial Covered
14 Sackler Persons in Support of Disclosure Statement for
15 Second Amended Plan (related document(s)2825, 2489) filed by
16 Jasmine Ball on behalf of Beacon Company. (ECF #2833)

17
18 HEARING re Statement / Submission by The Raymond Sackler
19 Family of a Proposed Position Statement for Inclusion or
20 Reference in the Debtors' Disclosure Statement (related
21 document(s)2825) filed by Gerard Uzzi on behalf of The
22 Raymond Sackler Family. (ECF #2853)

1 HEARING re Statement Regarding Objection to Debtors' Motion
2 to Approve Disclosure Statement (related document(s)2703,
3 2489) filed by Aaron R. Cahn on behalf of State of West
4 Virginia, ex. rel. Patrick Morrissey, Attorney General.
5 (ECF #2857)

6
7 HEARING re Objection to Motion /SUPPLEMENTAL OBJECTION OF
8 PETER W. JACKSON TO DISCLOSURE STATEMENT FOR SECOND AMENDED
9 CHAPTER 11 PLAN FOR PURDUE PHARMA, L.P. AND ITS AFFILIATED
10 DEBTORS (FOURTH PLAN SUPPLEMENT) (related document(s)2489)
11 filed by Jonathan C Lipson on behalf of Peter Jackson. (
12 ECF #2881)

13
14 HEARING re Notice of Withdrawal of Limited Objection to
15 Disclosure Statement and Solicitation Procedures Motion
16 (related document(s)2746) filed by Scott S. Markowitz on
17 behalf of Ad Hoc Committee of NAS Babies. (ECF #2903)

18
19 HEARING re Notice of Withdrawal of Joinder to State of West
20 Virginia's Objection to Debtors' Motion to Approve
21 Disclosure Statement (related document(s)2749) filed by
22 Scott S. Markowitz on behalf of Ad Hoc Committee of NAS
23 Babies. (ECF #2906)

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1 HEARING re Statement of the Official Committee of Unsecured
2 Creditors in Respect of Disclosure Statement and
3 Solicitation Procedures Motion for Third Amended Chapter 11
4 Plan for Purdue Pharma L.P. and Its Affiliated Debtors
5 (related document(s)2489, 2907) filed by Ira S. Dizengoff on
6 behalf of The Official Committee of Unsecured Creditors of
7 Purdue Pharma L.P., et al. (ECF #2911)

8
9 Statement of Ad Hoc Group of Individual Victims in support
10 of the Debtors' Motion to Approve the Adequacy of
11 Information in the Disclosure Statement (related
12 document(s)2489, 2910) filed by J. Christopher Shore on
13 behalf of Ad Hoc Group of Individual Victims of Purdue
14 Pharma L.P. (ECF #2914)

15
16 HEARING re Response / Ad Hoc Committee's Response to
17 Disclosure Statement Objections (related document(s)2773,
18 2703, 2720, 2857, 2907) filed by Kenneth H. Eckstein on
19 behalf of Ad Hoc Committee of Governmental and Other
20 Contingent Litigation Claimants. (ECF #2915)

21
22 HEARING re Supplemental Objection to Motion to Approve
23 Adequacy of Information in Disclosure Statement (related
24 document(s)2489) filed by Eric Fisher on behalf of Baltimore
25 City Board of School Commissioners, Board of Chicago School

1 District No. 299, Board of Education of East Aurora School
2 District 131, Board of Education of Miami-Dade County Public
3 Schools, Board of Education of Thornton Fractional Township
4 High School District 215, Board of Education of Thornton
5 Township High School District 205. (ECF #2916)

6
7 HEARING re Reply to Motion/ Debtors' Omnibus Reply in
8 Further Support of the Motion to Approve (I) the Adequacy of
9 the Disclosure Statement, (II) Solicitation and Voting
10 Procedures, (III) Forms of Ballots, Notices and Notice
11 Procedures in Connection Therewith, and (IV) Certain Dates
12 with Respect Thereto (related document(s)2489) filed by
13 Darren S. Klein on behalf of Purdue Pharma L.P. (ECF 2910)

14
15 HEARING re Chapter 11 Plan/ Joint Chapter 11 Plan of
16 Reorganization of Purdue Pharma L.P. and its Affiliated
17 Debtors filed by Eli J. Vonnegut on behalf of Purdue Pharma
18 L.P. (ECF #2487)

19
20 HEARING re Disclosure Statement for Chapter 11 Plan for
21 Purdue Pharma L.P. and its Affiliated Debtors (related
22 document(s)2487) filed by Darren S. Klein on behalf of
23 Purdue Pharma L.P. (ECF #2488)

1 HEARING re Statement /Notice of Filing of Appendix F to the
2 Disclosure Statement filed by Eli J. Vonnegut on behalf of
3 Purdue Pharma L.P. (ECF #2491)

4

5 HEARING re Notice of Hearing/ Notice of Disclosure Statement
6 Hearing (related document(s)2489) filed by Darren S. Klein
7 on behalf of Purdue Pharma L.P. (ECF #2494)

8

9 HEARING re Notice of Adjournment of Hearing/ Notice of
10 Adjournment of Disclosure Statement Hearing (related
11 document(s)2489) filed by Marshall Scott Huebner on behalf
12 of Purdue Pharma L.P. (ECF #2625)

13

14 HEARING re Amended Plan/ First Amended Joint Chapter 11 Plan
15 of Reorganization of Purdue Pharma L.P. and its Affiliated
16 Debtors (related document(s)2487) filed by Eli J.
17 Vonnegut on behalf of Purdue Pharma L.P. (ECF #2731)

18

19 HEARING re Statement/ Notice of Filing of Plan Supplement
20 Pursuant to the First Amended Joint Chapter 11 Plan of
21 Reorganization of Purdue Pharma L.P. and its Affiliated
22 Debtors (related document(s)2731) filed by Eli J. Vonnegut
23 on behalf of Purdue Pharma L.P. (ECF #2732)

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1 HEARING re Statement/ Notice of Filing of Blackline of First
2 Amended Plan (related HEARING re document(s)2731) filed by
3 Eli J. Vonnegut on behalf of Purdue Pharma L.P. (ECF #2733)

4
5 HEARING re Amended Disclosure Statement / Disclosure
6 Statement for First Amended Chapter 11 Plan for Purdue
7 Pharma L.P. and its Affiliated Debtors (related
8 document(s)2731) filed by Darren S. Klein on behalf of
9 Purdue Pharma L.P. (ECF #2734)

10
11 HEARING re Statement /Notice of Filing of Blacklines of
12 Disclosure Statement for First Amended Plan (related
13 document(s)2734) filed by Darren S. Klein on behalf of
14 Purdue Pharma L.P. (ECF #2735)

15
16 Statement / Notice of Filing of Revised Proposed Order
17 Approving (I) the Adequacy of Information in the Disclosure
18 Statement, (II) Solicitation and Voting Procedures, Forms of
19 Ballots, Notices and Notice Procedures in Connection
20 Therewith, and (IV) Certain Dates with Respect Thereto
21 (related document(s)2489) filed by Darren S. Klein on
22 behalf of Purdue Pharma L.P. (ECF #2736)

1 HEARING re Statement / Notice of Filing of Second Plan
2 Supplement Pursuant to the First Amended Joint Chapter 11
3 Plan of Reorganization of Purdue Pharma L.P. and its
4 Affiliated Debtors (related document(s)2734, 2731) filed by
5 Eli J. Vonnegut on behalf of Purdue Pharma L.P. (ECF#2737)
6
7 HEARING re Notice of Adjournment of Hearing/ Notice of
8 Adjournment of Disclosure Statement Hearing (related
9 document(s)2489) filed by Darren S. Klein on behalf of
10 Purdue Pharma L.P. (ECF #2780)
11
12 HEARING re Amended Disclosure Statement for First Amended
13 Chapter 11 Plan for Purdue Pharma L.P. and its Affiliated
14 Debtors (related document(s)2731) filed by Darren S. Klein
15 on behalf of Purdue Pharma L.P. (ECF #2788)
16
17 HEARING re Statement /Notice of Piling of Amended Blackline
18 of Disclosure Statement for First Amended Plan (related
19 document(s)2788) filed by Darren S. Klein on behalf of
20 Purdue Pharma L.P. (ECF #2789)
21
22 HEARING re Amended Plan / Second Amended Joint Chapter 11
23 Plan of Reorganization of Purdue Pharma L.P. and its
24 Affiliated Debtors filed by Darren S. Klein on behalf of
25 Purdue Pharma L.P. (ECF #2823)

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HEARING re Statement / Notice of Filing of Blackline of
Second Amended Plan (related document(s)2823) filed by
Darren S. Klein on behalf of Purdue Pharma L.P.
(ECF #2824)

HEARING re Disclosure Statement for Second Amended Chapter
11 Plan for Purdue Pharma L.P. and its Affiliated Debtors
(related document(s)2823) filed by Darren S. Klein on behalf
of Purdue Pharma L.P. (ECF #2825)

HEARING re Statement / Notice of Filing of Blackline of
Disclosure Statement for Second Amended Plan (related
document(s)2823, 2825) filed by Darren S. Klein on behalf of
Purdue Pharma L.P. (ECF #2826)

HEARING re Notice of Adjournment of Hearing/ Notice of
Adjournment of Disclosure Statement Hearing filed by Darren
S. Klein on behalf of Purdue Pharma L.P. (ECF #2839)

HEARING re Statement / Notice of Filing of Appendix F to the
Disclosure Statement filed by Eli J. Vonnegut on behalf of
Purdue Pharma L.P. (ECF 2491)

1 HEARING re Amended Plan / First Amended Joint Chapter 11
2 Plan of Reorganization of Purdue Pharma L.P. and its
3 Affiliated Debtors (related document(s)2487) filed by Eli J.
4 Vonnegut on behalf of Purdue Pharma L.P. (ECF #2731)
5
6 HEARING re Statement / Notice of Filing of Plan Supplement
7 Pursuant to the First Amended Joint Chapter 11 Plan of
8 Reorganization of Purdue Pharma L.P. and its Affiliated
9 Debtors (related document(s)2731) filed by Eli J. Vonnegut
10 on behalf of Purdue Pharma L.P. (ECF #2732)
11
12 HEARING re Amended Disclosure Statement/ Disclosure
13 Statement for First Amended Chapter 11 Plan for Purdue
14 Pharma L.P. and its Affiliated Debtors (related
15 document(s)2731) filed by Darren S. Klein on behalf of
16 Purdue Pharma L.P. (ECF #2734)
17
18 HEARING re Statement/Notice of Filing of Revised Proposed
19 Order Approving (I) the Adequacy of Information in the
20 Disclosure Statement, (II) Solicitation and Voting
21 Procedures, Forms of Ballots, Notices and Notice Procedures
22 in Connection Therewith, and (IV) Certain Dates with Respect
23 Thereto (related document(s)2489) filed by Darren S. Klein
24 on behalf of Purdue Pharma L.P. (ECF #2736)
25

1 HEARING re Statement / Notice of Filing of Second Plan
2 Supplement Pursuant to the First Amended Joint Chapter 11
3 Plan of Reorganization of Purdue Pharma L.P. and its
4 Affiliated Debtors (related document(s)2734, 2731) filed by
5 Eli J. Vonnegut on behalf of Purdue Pharma L.P. (ECF #2737)

6
7 HEARING re Amended Disclosure Statement for First Amended
8 Chapter 11 Plan for Purdue Pharma L.P. and its Affiliated
9 Debtors (related document(s)2731) filed by Darren S. Klein
10 on behalf of Purdue Pharma L.P. (ECF #2788)

11
12 HEARING re Amended Plan/ Second Amended Joint Chapter 11
13 Plan of Reorganization of Purdue Pharma L.P. and its
14 Affiliated Debtors filed by Darren S. Klein on behalf of
15 Purdue Pharma L.P. (ECF #2823)

16
17 HEARING re Statement / Notice of Filing of Third Amended
18 Plan Supplement to the Second Amended Joint Chapter 11 Plan
19 of Reorganization of Purdue Pharma L.P. and its Affiliated
20 Debtors (related document(s)2823, 2825) filed by Eli J.
21 Vonnegut on behalf of Purdue Pharma L.P. (ECF #2867)

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1 HEARING re Statement/ Notice of Filing of Fourth Plan
2 Supplement to the Second Amended Joint Plan of
3 Reorganization (related document(s)2823) filed by Eli J.
4 Vonnegut on behalf of Purdue Pharma L.P. (ECF #2868)
5
6 HEARING re Statement / Notice that Disclosure Statement
7 Hearing Scheduled for May 26, 2021 at 9:00 a.m. will be
8 Conducted through Zoom (related document(s)2882) filed by
9 Eli J. Vonnegut on behalf of Purdue Pharma L.P. (ECF #2902)
10 Amended Plan / Third Amended Joint Chapter 11 Plan of
11 Reorganization of Purdue Pharma L.P. and its Affiliated
12 Debtors (related document(s)2487, 2489) filed by Eli J.
13 Vonnegut on behalf of Purdue Pharma L.P. (ECF #2904)
14
15 HEARING re Amended Disclosure Statement /Disclosure
16 Statement for Third Amended Joint Chapter 11 Plan of
17 Reorganization of Purdue Pharma L.P. and its Affiliated
18 Debtors (related document(s)2904, 2489) filed by Eli J.
19 Vonnegut on behalf of Purdue Pharma L.P. (ECF #2907)
20
21 HEARING re Motion to Allow/ Debtors' Motion for Leave to
22 Exceed the Page Limit in Filing Omnibus Reply in Opposition
23 to the Objections to the Debtors' Motion to Approve (I)
24 the Adequacy of Information in the Disclosure Statement,
25 (II) Solicitation and Voting Procedures, (III) Forms of

1 Ballots, Notices and Notice Procedures in Connection
2 Therewith, and (IV) Certain Dates with Respect Thereto filed
3 by Darren S. Klein on behalf of Purdue Pharma L.P.
4 (ECF #2909)

5
6 HEARING re Statement / Order Approving (I) the Adequacy of
7 Information in the Disclosure Statement, (II) Solicitation
8 and Voting Procedures, (III) Forms, Ballots, Notices and
9 Notice Procedures in Connection Therewith, and (IV) Certain
10 Dates with Respect Thereto (related document(s)2489, 2907)
11 filed by Darren S. Klein on behalf of Purdue Pharma L.P.
12 (ECF #2913)

13
14 HEARING re Declaration/ Second Supplemental Declaration of
15 Jeanne C. Finegan (related document(s)2489) filed by James
16 I. McClammy on behalf of Purdue Pharma L.P. (ECF #2917)

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25 Transcribed by: Sonya Ledanski Hyde

1 A P P E A R A N C E S :

2

3 DAVIS POLK & WARDWELL LLP

4 Attorneys for Debtor

5 450 Lexington Avenue

6 New York, NY, 10017

7

8 BY: MARSHALL HUEBNER (TELEPHONICALLY)

9 JAMES MCCLAMMY (TELEPHONICALLY)

10 CHRISTOPHER ROBERTSON (TELEPHONICALLY)

11 ELI J. VONNEGUT (TELEPHONICALLY)

12 DARREN KLEIN (TELEPHONICALLY)

13

14 PORTEOUS HAINKEL & JOHNSON LLP

15 Attorneys for City of Covington, the Parish of DeSoto,

16 the City of Chillicothe, the Coroner of St. Bernard

17 Parish, the Four Winds Louisiana Cherokee, the

18 Northwestern Band of the Shoshone Nation, and the

19 Carpenter Health Network.

20 704 Carondelet Street

21 New Orleans, 70130

22

23 BY: RALPH R. ALEXIS, III (TELEPHONICALLY)

24

25

1 PILLSBURY WINTHROP SHAW PITTMAN LLP

2 Attorneys for Ad Hoc Group of Non-Consenting States

3 31 West 52nd Street

4 New York, NY 10019

5
6 BY: ANDREW TROOP (TELEPHONICALLY)

7
8 UNITED STATES DEPARTMENT OF JUSTICE

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1 P R O C E E D I N G S

2 THE COURT: Good morning. This is Judge Drain and
3 we're here in In re: Purdue Pharma, LP, et al. This is the
4 scheduled hearing on the Debtors' request for approval of
5 their disclosure statement for what is now, I gather, their
6 fourth amended Chapter 11 plan.

7 I think, given the number of parties who've asked
8 to appear and speak at this hearing, rather than take
9 appearances now, I'll just ask you to identify yourself and
10 your client the first time that you speak, and ask you also,
11 if you speak later, to remember to repeat your name, so that
12 the court reporter can put together your voice with your
13 name, since the court reporter doesn't have the benefit of
14 the Zoom screen, as I do.

15 So, I understand that you were informed, as I was,
16 that the Debtors asked for a one-hour delay of this hearing,
17 to finalize some remaining document issues, and they have
18 now filed a fourth amended plan, which I've had the chance
19 to review the blackline of, but I think we should go ahead
20 now with the hearing. So, I don't know who's going to be
21 taking the lead from the Debtors' counsels' point of view,
22 but I'll ask them to go forward.

23 MR. HUEBNER: Good morning, Your Honor. I think
24 that, for worse or for better, that's probably me at the
25 outset. This is Marshall Huebner of Davis Polk and

1 Wardwell, LLP on behalf of the Debtors. Your Honor, let me
2 first do my traditional sound check and ask if I can be
3 heard clearly by the Court.

4 THE COURT: Yes, we can hear you fine, thanks.

5 MR. HUEBNER: So, Your Honor, let me begin, which
6 is probably not going to be a surprise to anybody, with both
7 tremendous apologies and tremendous thanks, not only to the
8 Court but to, frankly, all parties. This case is,
9 obviously, a case unlike any other, and that is, actually,
10 just the simple truth. You know, we were up well past 3
11 a.m. resolving issues yet again, as we were the night before
12 and the night before that, at 1 a.m. and 3 a.m. and 7 a.m.
13 and 8 a.m. and 9 a.m., and as we speak, there are issues
14 getting resolved and language being exchanged among many
15 parties.

16 It is not our style and not our way to be filing
17 things, you know, on the morning of the hearing or at 3 a.m.
18 the night before a hearing, but unfortunately, sometimes,
19 you know, in cases of complexity like this, it is
20 unavoidable. Obviously, we're happy to explain and walk
21 through, as we get to each issue, sort of where we are and
22 where we're not, and I'll be talking about that, obviously,
23 a little bit more, as we go through.

24 So I'm going to begin with an overall
25 presentation, catching up the Court and all parties with

1 respect to the situation, which I actually think, on the
2 whole, is extremely positive, and I think that you'll hear
3 in a few minutes, that the great number of disclosure
4 statement objections that were pressing, as recently as one
5 hour ago and seven hours ago and twelve hours ago are now
6 resolved, and we are now down to a tiny number of issues
7 with respect to the disclosure statement itself, which I
8 will address.

9 So let me sort of rewind the tape just for a
10 moment, and then just go forward. You know, as the Court,
11 of course, knows perfectly well, I was accurate and honest
12 and concerned last week at the hearing, and I told you that
13 I was not an all confident that we would be ready to have a
14 disclosure statement hearing on May 26th, whether it was
15 other pressures or whether people understanding that we said
16 it and we meant it and that today may well not be happening
17 and the costs and the risks to all parties in the case
18 (sound drops) could be narrowly material.

19 The last 143 hours, and virtually every one of
20 those hours have been an incredible pressure -- pressurized
21 situation in getting many, many things resolved, and while
22 we are not done, done-done, ultimately, on a call early --
23 very early this morning with various of our key
24 stakeholders, the decision was made, and I think it was a
25 pretty clear decision, and one that our board chair and

1 special committee chair endorsed and validated about an
2 hour-and-a-half ago, that proceeding this morning was
3 absolutely the right approach, and hopefully the Court will
4 agree with that, by the time we're done walking through with
5 where we are.

6 So let me sort of begin, I guess, by saying what
7 this hearing is not, because I think that that actually
8 helps frame why we are here today. Today is not the
9 confirmation hearing, and it is not the day on which we need
10 to actually prove the unquestionable legality of every
11 provision in the plan, and obviously we very much hope,
12 including with the mediation that is upcoming, there still
13 are going to be positive changes that are good for all
14 parties.

15 You'll also hear that, not only with respect to
16 Sackler-facing issues, and obviously, the nonconsenting, or
17 as I like to call them, the currently nonconsenting states
18 group, but you'll also hear that with respect to other
19 issues like the schools, for example, and how we resolved
20 their disclosure statement objection. I think, you can say
21 what you want about us, but you can't say that we don't work
22 as hard as we can, every single day, to bring as many people
23 into the tent as we can and to resolve as many issues as we
24 possibly can.

25 Today is also not the closing date of a corporate

1 transaction, when every single document has to be in
2 execution form, with signatures (indiscernible). It is not
3 that day. It is also not the plan supplement filing date,
4 where, as is traditional in every mega-case in which I have
5 ever participated in my career, a variety of documents that
6 do not need to be ready by the disclosure statement
7 deadline, but do need to be ready X days before creditors,
8 to make their final decision, having already absorbed all
9 the information that has been provided to them during a case
10 in many, many forms -- in this case, frankly, more
11 information and more forms and at more junctures than any
12 case in history -- is finally provided to them.

13 What it is, is the disclosure statement hearing,
14 which is a hearing under 1125 to decide whether the document
15 contains enough information to allow a reasonable
16 hypothetical investor to cast an informed vote on the plan.

17 I think it also bears mention, as of course this
18 Court knows probably as well or at least almost as well as
19 we do, that this case has more subgroups and more ad hoc
20 committees and more represented individual slices of the
21 stakeholder world, I genuinely believe, and I do not say
22 this hyperbolically, than any case in the United States
23 bankruptcy history.

24 There has never been a case, to my knowledge, with
25 something like 11 ad hoc committees, and that probably

1 understates it, because, you know, we have lots of other
2 groups.

3 For example, what's very helpful to us is that
4 this so-called codefendant group -- I don't know exactly how
5 they want to be called -- you know, is working in an
6 organized fashion and talking to us as a group and resolved
7 (indiscernible) Ad Hoc Group or the 2019, but, you know,
8 each of the many, many groups facing the situation, you
9 know, is organized and passionately, intensely involved with
10 counsel and so I think that for anybody to credibly say, by
11 the time we're done today, there just isn't enough
12 information for people to know how to vote on this plan,
13 which is the claim they essentially have to make and
14 convince the Court is true, to prevail, is just not going to
15 be a credible statement, from any party.

16 And by the time we're done, we will walk you
17 through in extreme detail why we believe that is true. So
18 there definitely are issues that remain open, but the
19 question is, are they the types of issues with -- as to
20 which solicitation cannot commence. We believe the answer
21 is an emphatic no, and the core stakeholder groups with whom
22 we're working hand in glove, day and night, agree with that
23 assessment.

24 The other issue, as the Court knows, because I
25 raise it at every -- virtually every hearing, is that we are

1 so painfully aware, every day, of the costs of delay and the
2 fact that those costs translate into the loss of life or the
3 inability to ameliorate the situation as the time to get
4 money out to opioid victims is delayed and is, instead,
5 spent on professional fees and so, you know, this is not a
6 normal case, in any sense of the word, and so, that is
7 another reason why we just feel so passionately, that
8 getting the disclosure statement done and out, and then
9 working just as many hours a day as we are now, every day
10 between now and August, to resolve every remaining issue and
11 bring people into tent, is the way to do it, and that's the
12 relief we're going to be asking for today.

13 So now, let me get a little bit more granular.
14 Your Honor, the fourth amended plan is on file. The
15 disclosure statement either has hit while I have been
16 talking/bloviating, or is going to hit any second. It's
17 just a matter of mechanical processing. The team has been
18 madly catching the disclosure statement up to the final --
19 as of this morning, but not final-final updated provisions
20 in the plan, and as you'll hear in a couple of minutes, we
21 have resolved a tremendous number of the disclosure
22 statement objections, and frankly, a relatively small number
23 remain.

24 With respect to what's really new and different,
25 you know, the documents that are getting on file now, in

1 large part, relate to some of the granular details of the
2 work that the Debtors, the AHC, the UCC, the MSG, and others
3 primarily have done, opposite the Sacklers to ensure that
4 the \$4.275 billion, laid out in substantial detail in the
5 initial version of the disclosure statement, with the
6 payment schedule absolutely laid out in an unchanged initial
7 disclosure statement, is made money good.

8 You know, on some level, Your Honor, it's sort of
9 like a covenant package and the security documents, which
10 very often wouldn't even be known until much later in the
11 process, right. Very often, you know, with respect to, you
12 know, a credit agreement or an exit securitization or an
13 exit securities offering, at the time of the disclosure
14 statement, there would actually be only a short form terms
15 sheet, and everything else would follow later.

16 We understand that this is not an ordinary case
17 and we were absolutely, positively, neither we nor the ACH
18 nor the UCC nor the MSG, we would not be willing to proceed
19 to this hearing -- would not, let me be very clear -- if
20 what we had today was merely what we had, as momentous as it
21 was, on March 15th facing the Sacklers, because it's not
22 only a security agreement for a credit facility, right.

23 This \$4.275 billion is, obviously, you know,
24 potentially the cornerstone or capstone of the value being
25 distributed and the Court, I think, can take a lot of

1 comfort from the fact that between the four law firms on the
2 AHC side -- Akin Gump, which has been as intense and focused
3 in this case as in any case I have seen them in my 20-
4 whatever year career, and obviously all Debtors and their
5 professionals and the MSG, that, you know, there were not
6 one group, but there were four groups opposite the Sacklers
7 negotiating to ensure that we believe we have a money good
8 deal that is going to be honored and we are going to get all
9 of these payments, and frankly, I don't know that a
10 hypothetical, reasonable creditor, in fact, needs to
11 understand, you know, Section 5.2.A.C.4 of a collateral
12 package to cast an informed vote.

13 The fact that there were four intensely armed sets
14 of constituencies opposite the Sacklers ensuring that we
15 have a deal that we could believe is money good, we actually
16 think, is of inestimable value in giving people comfort.

17 And just to give sort of preview sketch, Your
18 Honor, so that hopefully you will, you know, at least get
19 comfort on a preliminary basis, while this is all for
20 confirmation -- and I'm not actually even sure which section
21 of 1129 this may relate to, frankly, on the objectors' side,
22 but we'll leave that for another day -- we have a fair
23 amount of collateral that we are quite comfortable with at
24 the end of the day, in addition to the fact, obviously, if
25 the Sacklers default, the consequences of that default, we

1 could be -- potentially be liable to be sued for hundreds of
2 billions of dollars, we think, is obviously a risk that they
3 have decided to put away forever for 4.275 and 4.5 counting
4 the DOJ money.

5 And the notion that they would begin to pay, and
6 pay us a billion or \$2 billion or \$3 billion, and then
7 default and risk being sued for hundreds of billions and
8 having their lives destroyed by the fact that every
9 government, every private plaintiff will have the right to
10 sue them, as well as the estate will have the right to sue
11 them, the natural structural comfort built into this deal is
12 tremendous, but we did not remotely view it as enough.

13 And so the structure that we have, involves the
14 pledge of all of the worldwide IACs, which, as the Court --
15 or virtually all the worldwide IACs, which, as the Court
16 remembers, was a critical part of the initial deal in
17 October 2019 -- those entities are believed to have several
18 billion dollars of value, all on their own, and the net
19 proceeds come to the Debtors -- we also have separate
20 collateral from each of the ten pods that is very material
21 in value, on top of the IACs, and of course, we have the
22 personal guarantees and pledges upon which we are resting to
23 withhold the hellfire that Debtors' causes of action and the
24 termination of the injunction would otherwise release, not
25 only on the initial covered Sackler persons, but the

1 additional covered Sackler persons as well.

2 We also have, as people can see in the documents,
3 comprehensive covenants and reporting requirements,
4 different for each of the pods, because each is different,
5 that the Debtors believe are sufficient to ensure that the
6 shareholder parties will fulfill their obligations under the
7 shareholder agreement, and while it is not for me to comment
8 on information allegedly provided to Congress or allegedly
9 disclosed by Congress, you know, it sort of cuts both ways,
10 that at least the Congressional releases suggested the
11 Sacklers have over \$11 billion of wealth, which, I think,
12 gives people confidence that they have an unthinkable amount
13 at risk, were they ever to breach this deal post-emergence,
14 as, as I said before, and I'll say it once last time, not
15 only are all of the Debtors' causes of action to be snapped
16 back, including potentially very material fraudulent
17 transfer claims, but everyone's claims snap back.

18 And so, whether it is, you know, the states or the
19 privates or the munis or the hospitals or the TVPs or the
20 tribes or the PIs, I mean, the notion that the family would
21 risk thousands of lawsuits, each asserting hundreds of
22 millions, billions, or tens of billions of liability,
23 strikes us as a very, very remote proposition, which is an
24 important, inherent structural part of the deal.

25 So, Your Honor, we have also, as I hope the

1 amended disclosure statements filed in advance of this
2 morning make clear, tried to be extremely responsive to
3 every, what I'll call actual disclosure objection that was
4 filed, and so, in response, for example, to the concerns by
5 the U.S. Trustee, we did a whole gaggle of things. Among
6 those things were moving back the plan supplement date, as
7 requested by the U.S. Trustee, to give people more time with
8 the final documents.

9 Again, I don't really, frankly, think that very
10 many creditors, if any, are really, truly going to be basing
11 their vote on what is in the plan supplements, but maybe
12 they will, and that's not for me to say, so that deadline
13 has been moved back. We also, frankly, gave more time than
14 we found in pretty much any mega-case. I think if you look
15 at our reply brief at Paragraph 13, Note 4, you'll see a
16 pretty big collection of pretty well-known names you would
17 know cases, and I think we have as long or longer periods
18 now than, I think, on pretty much any case that we know
19 about, or with very few exceptions.

20 I'm not going to quote the Court back to the
21 Court, because I think that's kind of obstreperous, but Your
22 Honor, you made it very clear to us on May 20th when you
23 urged us to move forward, to call balls and strikes where we
24 needed to, and reminded everyone that cases move in stages
25 and that some things get resolved before the disclosure

1 statement and some things get resolved between the
2 disclosure statement and confirmation, and this is what I
3 said on the first day of the case, literally, it was almost
4 my opening words, those many months ago. We remain
5 available 24 hours a day, every single day, between now and
6 confirmation to resolve any and every issue that we possibly
7 can, and there will be a lot more documentation coming as
8 soon as it is ready or we think that those things are
9 confirmation related issues.

10 So, with respect to the Sacklers, let me now just
11 explain where we are, sort of from a deal perspective.
12 Documents are being filed as we speak. The material
13 business issues with both the A side and the B side on sort
14 of what I'll just generally call collateral and covenants
15 have now been resolved.

16 All issues are definitely not resolved and there
17 are definitely some brackets in the terms sheets and they're
18 definitely the kinds of things that you'd expect to be done
19 between sort of now and the plan supplement filing date when
20 we will hopefully have a fully executed, obviously zero
21 blanks, zero brackets, signed set of settlement documents,
22 but the last issues got resolved only about an hour ago,
23 that we believed had to be resolved by today, and while, you
24 know, various parties will for sure -- and I invite it, in
25 fact, it's no problem at all -- we'll stop and say, for the

1 avoidance of doubt, Your Honor, we are not yet resolved on
2 Issue A, and I'm sure the Sacklers will say that as well.

3 We understand and agree, there are some blanks and
4 brackets in what is an unthinkably complicated deal, with
5 ten different Sackler pods, but again, that is not today's
6 issue. It is not the plan supplement date. It is not the
7 confirmation hearing. There's a lot of other really good
8 news, separate and apart from the disclosure statement
9 objections.

10 The settlement between the federal government and
11 the personal injury trust, I foreshadowed this last week,
12 Your Honor, that this was a potentially large open issue on
13 which the parties were productively engaged, and I like to
14 think we played a little bit of a part in helping mediate
15 them towards something that works.

16 The United States -- I won't keep saying allegedly
17 or potentially, but certainly asserts and believes that it
18 has the right to get recoveries out of personal injury
19 claimants and many other claimants who, themselves, get
20 recoveries from alleged tortfeasors and plaintiffs. Again,
21 obviously a bunch of money that was suffered in terms of
22 losses may have been things that were reimbursed by the
23 federal government, whether it's Medicare or Medicaid or
24 veterans benefits or the like, and so the federal
25 government, potentially, was looking at reserving its rights

1 to surcharge or seek subrogation or liens or other sort of
2 similar remedies against the PIs.

3 We're delighted, delighted, delighted to report
4 that issue is fully resolved and the United States and the
5 PIs have agreed that the United States will take \$26 million
6 over time approximately 3.7 percent or so of the \$700
7 million minimum amount allocated under the plan to the PI
8 Trust. Those amounts are to get paid in installments. I
9 think there's \$11 or \$11.1 million, I think it is, that gets
10 paid on the effective date, then there's language in the
11 schedule for paying the rest over time. Very important
12 issue that could've actually derailed the plan and is now
13 resolved.

14 The second issue that also relates to the
15 disclosure statement, and resolves another important set of
16 objections, is another resolution between the NAS personal
17 injury claims and sort of the larger body or adult sort of
18 personal injury claims, and that has also now been resolved,
19 which also, in part, was responsible for the resolution of
20 the NAS disclosure statement objection.

21 In broad brush terms, just to update the Court and
22 everyone else and forgive me if I get the details a little
23 bit wrong. A separate fund is going to be established under
24 the PI trust for the holders of NAS PI claim -- PI claims in
25 particular -- and funded with 6.43 percent of the amount

1 distributed to the PI Trust up to an aggregate amount of \$45
2 million and there'll be separate trust distribution
3 procedures, henceforth TDPs -- we'll be talking about those
4 a lot today -- for the NAS block. Another really important
5 resolution.

6 With respect to the federal government's claims,
7 there is another really important resolution that is now
8 baked, which is, as the Court may or may not remember, since
9 we have just this case most of the time, all day, but of
10 course, Your Honor has hundreds of cases and we don't forget
11 that, the original DOJ settlement approved by the Court back
12 in the ancient days of yore did not specify a treatment for
13 the DOJ's very large -- I believe the number is \$6.544
14 billion -- of unsecured claims, and the DOJ also has strong
15 views that it has the right to participate as a TPP as a
16 third party payor, in the third party payor sort of separate
17 cash pot.

18 Those issues have now also been resolved, and
19 there is now an agreed treatment for the DOJ's general
20 unsecured claims, not the forfeiture claim, which of course,
21 as the Court knows, another cornerstone of the plan is
22 treated separately with 225 of cash and admitted, agreed
23 under this plan structure, 1.775 credit, in light of the
24 fact that that money is going to state and local
25 governments, exclusively for opioid abatement, and so there

1 is -- and the federal government and the states and the TPPs
2 have essentially agreed that for a single set of money paid
3 to federal government over several years, that satisfies
4 both their general unsecured claims and what could have been
5 another sort of deal blocker view of their right to
6 participate separately in the TPP class. Now, they're being
7 paid under the plan for that, and that is also resolved.

8 So, big things have been happening, frankly, day
9 by day, but we are very encouraged by it. So let me say one
10 thing before I go into the -- one of the later substantive
11 issues, which is, there are going to be several times during
12 this hearing where someone is going to correct me, possibly
13 sharply, or say that I have misstated something. Normally,
14 I would actually find that embarrassing and I would probably
15 be ready to say, actually, you're wrong, I'm not wrong.

16 Today may not be that day, because so many things
17 are moving in such a complicated way, including things that
18 are, frankly, in some cases, outside my general area of
19 experience, that I'm pretty confident I am going to get
20 things wrong, and so, I will probably not mind at all if
21 someone says, Mr. Huebner, may I cut in, you just totally,
22 completely bungled that, like, who even hired you, I can't
23 believe they even made you a partner at Davis Polk. And
24 that's going to be okay, because there's only one Debtor and
25 we can only do so much in a day and get our arms around

1 things of incredible complexity.

2 So, I tread carefully in the area of attorneys'
3 fees, which is, obviously, I don't live in the mass tort
4 world, and the issues of MDLs and common benefit funds and
5 scoops and (indiscernible) shares and turnovers and things
6 like that are just not my bailiwick. But here's my general
7 understanding of where we are.

8 One of the issues that was in, basically, all of
9 the fees (sound drops) terms sheets, and they were each
10 worded a little bit differently, and Davis Polk actually
11 didn't draft or, actually, work on any of those. They were
12 actually presented to all of us, essentially, as a fait
13 accompli. I'm not criticizing in any way the drafting, I'm
14 just saying that I didn't draft it, so I can't put my chop
15 on it, but all the phase one terms sheets, essentially, say
16 satisfaction or resolution of attorneys' fees in a manner
17 acceptable is a condition of the various phase one or
18 private side terms sheets.

19 And obviously, those provisions, either of which
20 is quite laconic, possibly mean different things to
21 different people, possibly could be read to mean different
22 things to different people, and there has been a tremendous
23 amount of discussion about attorneys' fees, all sorts of
24 directions, right. People are trying to get paid what they
25 perceive is fair for their extraordinary efforts in this

1 case. On the governmental side, I think there is an
2 interest in ensuring that as much money as possible goes to
3 abatement. Part of it is just, frankly, to be very direct,
4 the class action lawyers are -- do this a lot. There are
5 multiple deals going simultaneously. There are multiple
6 deals (indiscernible) past. There are just lots of
7 complexities in this whole issue of attorneys' fees that,
8 frankly, I don't know people often ask me why the hell I do
9 the crazy thing that I do in the "middle of a bankruptcy,"
10 but I -- this is happily not an issue I've had to deal with
11 before.

12 So, here's sort of where we are fundamentally in
13 Section 5.8 of the plan. The public side legal fees that
14 are going to be paid out of the public side distributions,
15 and when I say public, sorry, just to be clear, Your Honor,
16 I mean non-federal governmental, right. I don't mean
17 disrespect to federal government. I do not have a
18 wellspring of affection for it based on this case, but just
19 for the sort of shortening of time of the hearing, public
20 means non-federal governmental claimants.

21 So, fundamentally, 5.5 percent of the
22 distributions are going to be allocated for the attorneys'
23 fees of the local municipal governments and tribes by the
24 public side creditor trust, up to a maximum of \$275 million
25 in the aggregate. For the states, there's going to be a

1 fund for attorneys' fees funded up to 4.5 percent of the
2 public side distributions, up to a maximum of \$225 million
3 in the aggregate. Then, there's going to be something
4 called a common benefit escrow, which is going to be
5 established for the benefit of attorneys who performed work
6 that is also deemed or found to have benefitted all parties
7 in the Chapter 11 cases and the exact mechanics of this are
8 still being worked out, but fundamentally, here's sort of
9 the dynamic, and I'm just going to say it in plain English.
10 I'm sure someone will hate me, but there it is, right.

11 There are law firms who have been working on suing
12 Purdue for years and years, and actually have spent ten,
13 maybe even in excess of \$100 million or more of "their own
14 money" and in their view colloquially, those are the firms
15 whose years of effort has brought Purdue to its knees and
16 brought it into Chapter 11 and effectuated the resolution
17 that is now seeing billions of dollars going to lots of
18 creditor groups.

19 There are other law firms who have arrived on the
20 scene much more recently, representing creditors who, for
21 example, have not filed any prepetition lawsuits against
22 Purdue, but merely -- I don't mean merely in a judgmental
23 sense, but who actually sort of joined the situation either
24 just before or very soon after the bankruptcy case got
25 filed, representing individual constituents who are now

1 getting substantial sums of money.

2 And so the question of sort of how that works and
3 how that's fair, as I understand it, in the MDL or mass
4 tort, what we might call a 503(b) substantial contribution,
5 they more traditionally and for decades have a structure
6 called sort of an MDL common benefit fund, where, in
7 addition to the amounts that each claimant pays his or her
8 or its own lawyer, by virtue of agreement, there's a certain
9 amount that essentially comes off the top and goes to those
10 as determined by a Court who created the benefit for all
11 that enabled the resolution.

12 And again, it is true that some law firms have
13 been suing Purdue for many years, at tremendous cost, and
14 others have joined much more recently. And so, where I
15 understand that we are right now with respect to this sort
16 of MDL common benefit type fund concept, it's a little bit
17 complicated. I'm actually not going to explain the details
18 because I actually -- I'm not sure that for right now, given
19 how much we have to cover, the exact details matter, but my
20 general understanding is that the personal injury group, the
21 NAS monitoring group, and the hospitals group are all
22 agreeable, either in concept or much more specifically than
23 in concept, with overall 5 percent of the amounts that
24 otherwise would have been going to their -- not would have
25 been going -- that are otherwise slated and provided for in

1 the phase one terms sheet to our constituencies, to go into
2 this common benefit structure, to be determined by a court
3 as to exactly, sort of, where that common benefit (sound
4 drops) people who created the common benefit.

5 My understanding, as of this morning, and I think
6 they filed sort of, we're not sure this is okay with us, we
7 reserve our rights, is that the TPP group, the third party
8 payor group, is the one private side group that is not or
9 slash not yet on board with this approach, but my
10 understanding also -- again, I'm just going to be totally
11 straight -- is that these types of things tend to get worked
12 out among the lawyers who do this with one another sort of
13 all the time, and so, we've gotten as far as we can. Calls
14 are actually ongoing even as we speak, but from the meta-
15 perspective, I would say it like this.

16 The public side, which is getting the majority of
17 the distributions, the fees and expenses for those lawyers,
18 which are quite material as the Court heard, given the
19 quantum of distributions involved -- the percentages,
20 actually, are potentially lower, frankly, than many other
21 groups, although that's not unusual. The larger the number,
22 the lower the percentage. Those are going to be paid
23 exclusively out of the recoveries going to the public side.
24 So, it sort of goes out to the creditor trusts, then the
25 creditor trusts pay the fees in an allocated way.

1 In general, the private sides pay their fees, just
2 as they do, once the money goes out to each of the private
3 side trusts, and the primary open issue -- and it may be
4 open in principle, really, only with the TPPs -- is whether
5 they have likewise agreed, and if not, hopefully, we'll
6 ultimately get to a deal, with this sort of 5 percent which
7 has been subdivided into a 2 percent, 3 percent for fees
8 versus expenses, but again, those are details that I'm not
9 sure are germane for today, sort of, not really turnover,
10 but allocation of 5 percent, partially to come out of, I
11 think, legal fees and partially to come out of client
12 recoveries. It was a common benefit structure.

13 So, I'm sure that I have mangled that and I'm sure
14 that I have (sound drops) out, but because it's not -- it's
15 very, frankly -- I've never before been in a case where
16 legal fees were discussed at all in a plan of
17 reorganization.

18 Plans are normally about creditors and creditor
19 claims and allocation to save value to stakeholders, but
20 obviously, mass (sound drops) are different and I think
21 that, on the whole, many law firms were actually getting
22 less -- maybe the overwhelming majority of law firms -- are
23 getting less than their original contingency fee contracts
24 with their client would have provided, because that was a
25 social aim that some stakeholders in the case felt very

1 strongly about.

2 So, with respect to things that I think are now
3 largely resolved or resolved enough for disclosure statement
4 purposes, I think that that is probably not a terrible
5 summary. What I was going to do, but I first want to pause
6 and if someone else, obviously, wants to correct me or speak
7 up -- none of this is actually (sound drops) disclosure
8 statement -- say, where I'm going to go next, just a sign
9 post, because obviously, there's a lot to cover today, is
10 actually begin to walk through what's going to be in the
11 plan supplements, so that the Court and others have no doubt
12 about what's coming, and then to begin to actually march at
13 a high level through the disclosure statement, objections,
14 and what has been resolved.

15 So, one other issue, before I do that, that I
16 should raise at a conceptual level, is I think, every party
17 in this case that I have spoken to that -- spoken to, that
18 the Debtor have spoken to, I think, shares an extremely
19 strong view that there are no futures claims in this
20 situation. We, obviously, made the decision early in the
21 case, after talking to many constituencies, not to proceed
22 with a future (sound drops), which we agreed was unnecessary
23 and inappropriate and a tremendous waste of money.

24 This is no disrespect to other cases where a
25 different approach was taken, but that was (indiscernible).

1 This is not asbestos. This is not a latency case, per se.

2 The issue of exactly how we deal with the very
3 remote possibility that someone comes up in the future and
4 says, wait a minute, despite the most extensive, broad,
5 technically sophisticated noticing in the history of the
6 world -- I think we spent \$53 million on our noticing, and I
7 think we touched, if my memory is right, we touched every
8 single human being in America 5.6 times, and I think the
9 world has quite noticed the situation of OxyContin and
10 Purdue's alleged liability and the like, and so exactly how
11 we sort of situate the extremely unlikely, remote, and, we
12 believe, very small contingent risk of that, is something
13 that is still being worked on, and so I don't -- there are
14 still a couple of open things that we are working through.

15 So that is one of them. So let me just pause for
16 a second before I keep going because I -- or maybe I should
17 keep going. I'm not really sure which one, but just take a
18 breath for a second and see if any believes that I have
19 misspoken. There are others, I'd just like -- I want the
20 distributors and co-defendants to feel hurt if I didn't
21 mention them in the big intro, so let me just address that
22 for a second and hopefully I'm totally au courant.

23 They filed a pretty serious, pretty good read
24 disclosure statement objection as we took everybody's
25 concerns. We took their concerns very seriously. We worked

1 out language with them, and announced happily that we
2 resolved their objection, except we were running so fast,
3 that we actually forgot/didn't run it by the Sacklers, who
4 then said whoa, wait a second. Like, this actually,
5 potentially impacts our releases, like what the hell. And
6 so, then we were like, okay, we don't think there's a
7 business issue there, how about this. And then this morning
8 starting at like 6 a.m., the Sacklers, the Debtor, and the
9 co-defendants have been working on language that, I'm quite
10 hopeful, is going to resolve the issue.

11 I don't want to over promise and I think we don't
12 have to resolve this at, you know, 10:47 this morning,
13 because if it's not already resolved, I have a very good
14 feeling that it's going to be resolved by 11:47 or 12:47,
15 but if it's not, then at the end of the day today, we will
16 certainly circle back to it.

17 Obviously, if in the end, we have to make a choice
18 between either language the co-dependents can't live with or
19 the Sacklers can't live with, we'll have to live with the
20 consequences of that and whoever is unhappy will have to say
21 their piece and the Court will have to decide what to do,
22 but I have a pretty strong feeling that that's just not
23 going to be where we end up. I'm hopeful -- maybe that's
24 Panglossian -- but I'm (indiscernible) that it's just
25 cautiously optimistic as opposed to unrealistic.

1 So, if distributors, co-defendants didn't mean to
2 leave you out of the lineup, and we are grateful to them, by
3 the way. It is, in fact, obnoxious and not the Davis Polk
4 way when you tell someone your objection is resolved, you
5 have agreed language, and then several hours before the
6 hearing, you say oh, wait, sorry, here are a bunch of tweaks
7 to it, which is not, again, a place we like to be, but we're
8 truly working as fast as we can, and I think everybody does
9 appreciate that, and obviously, it's just all very
10 complicated.

11 So, I'll pause for a second, but then I'm ready to
12 move on to stuff that's going to be coming in the plan
13 supplements and disclosure statement objections themselves,
14 unless the Court has question or other parties feel the need
15 at this particular juncture to jump in.

16 THE COURT: Okay, well let me note, I have
17 reviewed the blackline of the fourth amended plan, the major
18 changes to which you've been addressing. It's not an
19 extensive blackline. I'd say many of the changes are simply
20 -- involve taking out bracketed -- brackets around language
21 in the third amended plan or putting in a date where there
22 wasn't one before. My impression is that you have
23 summarized the changes, in large measure, that are not like
24 that, and there are not a lot of them, but I did have a
25 question as to the last point that you raised.

1 Is there language in the blackline of the fourth
2 amended plan, dealing with the so-called co-defendant
3 defensive rights, et cetera? That's the Debtors' language
4 and you say you're still working that out or what --

5 MR. HUEBNER: Yeah -- happy to summarize.

6 THE COURT: What's the state of that language? Is
7 it just as you described it, that this is what you had
8 proposed with the defendants and there's still an issue with
9 it or is this language that you're hoping will resolve all
10 of the issues?

11 MR. HUEBNER: Sure. So, I think I'm going to get
12 this one right. This is not the original language that we
13 agree to with the co-defendants. This was the language with
14 a tweak added that we actually thought would be okay with
15 them to address the Sacklers' concerns. We were wrong. It
16 was definitely not okay with them.

17 Now, new language is being negotiated, literally
18 as we speak. There's sort of emails and there was a very
19 long conference call from, like, 9:08 to 9:52 that Eli
20 Vonnegut, my partner, was on. So, there will need to be new
21 language. New language is already being circulated that
22 tweaks this. Mr. Weintraub pointed out the circularity
23 between 10.6 and 10.7 and (indiscernible) -- I hope I'm
24 pronouncing that right. I feel terrible if I'm not --
25 pointed out another issue, so this is going to be slightly

1 tweaked further.

2 It will be one of those things, Your Honor, it
3 plays very bittersweet when you look at a blackline after,
4 like, not sleeping for seven days and the changes just look
5 to immaterial and you're like, how did we just, like, pull
6 four all-nighters for these changes. I think the language
7 change will not actually look all that material, but it is
8 one that's important to people and I think we will work it
9 out.

10 So, there will be new language on this, by the end
11 of the day or we'll have to see where we are if we're not
12 (indiscernible).

13 THE COURT: Okay. All right, fine. At this
14 point, I don't think we need to summarize more excessively
15 the changes between the fourth and third amended plans. I
16 have, as I'm sure others have -- others have things to say
17 about the disclosure statement as it relates to the plan and
18 I did have a couple of questions just as to how the language
19 in the plan is supposed to work, but that really is in the
20 nature of summarizing the changes.

21 So, I think it probably does make sense to move on
22 to the next step of the hearing.

23 MR. HUEBNER: Your Honor, let me give all parties
24 and the Court comfort about the tremendous forest of paper
25 that is actually going to be filed, we believe,

1 appropriately in advance of the voting deadline in the form
2 of plan supplements, as I said before, which is typical for
3 virtually, certainly I think, every mega-case I know about,
4 let alone ones that I was involved in.

5 Obviously, the TDP stuff has been sort of hitting
6 the docket on a rolling basis: the final trust agreements
7 for the master disbursement trust, the plan administration
8 trust, each of the creditor trusts will be filed by the plan
9 supplement date, as will the NewCo transfer agreement, the
10 NewCo operating agreement, the TopCo operating agreement,
11 the NewCo credit support agreement, the identity of the MDT
12 trustees and the MDT executive director, the identity of
13 NewCo's managers and TopCo's managers, the identify of the
14 plan administration trust and the PPLP liquidator, the
15 identify of the creditors trustees, if not previously
16 identified, the schedule of rejected contracts, the schedule
17 of the retained causes of action, the schedule of excluded
18 parties, the shareholder settlement agreement -- obviously,
19 that's kind of a big one -- and the restructuring (sound
20 drops) memorandum.

21 So, I do want to give the Court and all parties
22 comfort that this case has had, as I think the Court has
23 said a couple times, more information than possibly any case
24 ever. By the time people actually have to cast votes, and
25 certainly, some number of appropriate days in front of that,

1 there will be more documents and more information and more
2 granularity than any body could possibly know what to do
3 with. There is nothing, I think, that is going to be done
4 in this case before an appropriate deadline without the
5 full, blazing sunlight of public filing.

6 With respect to the disclosure statement itself,
7 Your Honor, the blackline is over 350 pages long, and there
8 are probably changes on almost all of or the majority of
9 those 350 pages. The clean is over 300 pages long. I think
10 that is a testament to the extraordinary seriousness for
11 which, not only Debtors, but other stakeholders as well,
12 have taken the provision of information to parties in this
13 case.

14 The reply brief lays out, and I am most not going
15 to summarize (sound drops) in the reply brief, which, I
16 hope, was well done and a good read. We think that we are
17 far, far above the bar of 1125's requirement of adequate
18 information. Mr. Robertson, Mr. McClammy, and Mr. Klein
19 divided up the objections and they're going to go into some
20 more detail on each of them when it's time to do that, but
21 I'm going to give some preliminary observations on what
22 we've done and then I will turn the podium over, pending any
23 questions from the Court.

24 One, there are very few, like, kind of not more
25 than a handful, candidly, of unresolved disclosure statement

1 objections in a case with over 614,000 claimants. Even the
2 original number objections, 45, was filed by, obviously, a
3 teeny fraction of the constituencies and creditors in this
4 case, and many of those were filed to the initial disclosure
5 statement which had a bunch of holes in it, and those
6 objections were understandable, because things were missing
7 as of March 15, as we unapologetically knew they were, and
8 told the Court that we were, and we said from the very
9 beginning, that the final documents would have way more
10 information and be very different than the one filed on
11 March 15.

12 And so, many of the 45, as you'll hear in a
13 minute, are now resolved. In fact, to be more precise, I
14 believe that 17 of the 45 have been resolved in their
15 entirety. That's not to say that each of these parties is
16 not fully reserving their rights, which is exactly
17 appropriate, and frankly, as you'll hear in a few minutes,
18 actually what we think the rest of the objectors should've
19 done and we're kind of surprised that they didn't. The
20 objectors who are resolved are reserving their rights, in
21 all respects, to object to confirmation. In fact, many of
22 the disclosure statement objections are just confirmation
23 objections, and that's actually, we think, the better
24 approach.

25 A couple of them were resolved with specific

1 assurances or promises from Debtors. Let me mention on in
2 particular, which is the schools. We have agreed, which I
3 think was sort of gracious on their part and appropriate on
4 our part, to engage in a mediation with the schools group
5 and several other groups in the case and Ken Feinberg,
6 which, of course, the Court remembers perfectly well, is one
7 of our two mediators from phase one and has agreed to assist
8 us in a one-day mediation to see if we can work something
9 out with the schools, who -- I don't think anybody is saying
10 that the schools are not unthinkably worthy as recipients of
11 value towards abatement and education at working on opioid
12 issues and opioid addiction prevention at the school and
13 pediatric level is not of inestimable value, but there are
14 just complex issues among governmental entities about how
15 it's done, and who gets what, and what the structure is, and
16 sort of that -- and that kind of thing, so that's why it's
17 not resolved yet.

18 It is resolved today for disclosure statement
19 purposes and we appreciate the thoughtful approach taken by
20 multiple parties, including, I actually believe, if I'm not
21 wrong, and Mr. Maclay of the MSGE Group, actually helped
22 facilitate the resolution of putting a one-day mediation in
23 place in exchange for not having a rodeo today with the
24 school, so I thank him for those efforts, and obviously, Mr.
25 Feinberg, who has agreed to take another day out of his life

1 when thought that his eleven-month sort of tour of duty in a
2 difficult space was over, to see if something can be popped
3 out there, also gets, I think, gratitude from many parties.

4 With respect to the objections that were resolved,
5 they include the insurer objection, which was by Steadfast,
6 American Guarantee and Liability, and Navigators Specialty.
7 The West Virginia objection, which again, like all the
8 others -- I'm not going to say it each time -- fully
9 reserves their rights on confirmation, as all the adjourned
10 disclosure statement objections largely do. And again,
11 that's totally appropriate and we appreciate it.

12 The NAS committee is resolved-resolved. As the
13 Court heard, they now have a deal sort of as for the 6.43
14 percent sub-trust within the PI world. The public schools,
15 I could describe, I won't repeat myself, Bridge House -- I'm
16 not reading docket numbers. I can, if that's helpful to the
17 Court, but I wasn't planning to. Carpenter Health, the City
18 of Chillicothe, the City of Covington, the Four Winds Tribe,
19 the Parish of DeSoto, the Northwestern Band of the Shoshone
20 Nation, the coroner of St. Bernard parish -- sorry, St.
21 Bernard Parish, the Cherokee Nation, the distributors,
22 manufacturers, and pharmacies, we already discussed at
23 length and so we'll have my prior description, maybe a
24 description of that, and then Johnson & Johnson's joinder.

25 With respect to the U.S. Trustee, and again, we'll

1 do --

2 THE COURT: Can I just --

3 MR. HUEBNER: -- the sort of specific --

4 THE COURT: Can I interrupt you for a second, Mr.
5 Huebner? You've just gone through a list and it's also
6 referenced in the Debtors' reply to the disclosure statement
7 objections of objectors who have either withdrawn their
8 objection to the disclosure statement in full or withdrawn
9 it, obviously, with a reservation of rights with respect to
10 the right to object to confirmation.

11 Do any of those parties disagree with that
12 characterization of where they stand at this point, with
13 regard to the disclosure statement?

14 MR. ALEXIS: Your Honor, if I may, Ralph Alexis of
15 the firm of Porteous, Hainkel, and Johnson in New Orleans.
16 Your Honor, we represent the City of Covington, the Parish
17 of DeSoto, the City of Chillicothe, the Coroner of St.
18 Bernard Parish, the Four Winds Louisiana Cherokee, the
19 Northwestern Band of the Shoshone Nation, and the Carpenter
20 Health Network.

21 And Your Honor, we confirm that we have withdrawn
22 our objections because, based on discussions with counsel
23 for the Debtors, we were able to confirm in writing with
24 them that our clients were properly solicited in their
25 respective classes, so we withdraw our objection to the

1 disclosure statement and we do respectfully reserve our
2 rights to object to the plan itself or to any motion to
3 confirm the plan as a whole.

4 And I want to say, Your Honor, counsel for the
5 Debtors were very gracious and generous in their time in
6 talking to us and it's sincerely appreciated. Thank you.

7 THE COURT: All right, thank you. Again, I don't
8 -- I just want to make sure that no one who was
9 characterized as having withdrawn their disclosure statement
10 objection disagrees with that, and that characterization
11 included Mr. Huebner's statement that, obviously, rights
12 with respect to confirmation have been reserved, where
13 they've been reserved.

14 Okay. Why don't you go ahead then, Mr. Huebner?

15 MR. HUEBNER: Sure. So, Your Honor, as we'll talk
16 about in a second -- maybe I should just sort of turn to it
17 now -- we, obviously, have, I hope, been very responsive
18 both to the requests and concerns of the Court and also
19 where we (indiscernible) to the U.S. Trustee, so let me
20 first -- which I'm sure was not lost on any party -- that
21 Article 3 Section AA of the plan now has a 19-page, single-
22 spaced, I believe, description called "Evaluation of the
23 Settlement with the Sackler Families."

24 THE COURT: You mean --

25 MR. HUEBNER: As I said at the last --

1 THE COURT: -- of the disclosure statement, not of
2 the plan.

3 MR. HUEBNER: Correct.

4 THE COURT: Right.

5 MR. HUEBNER: Yes, I'm sorry. Did I say plan? I
6 certainly meant disclosure statement.

7 THE COURT: That's fine.

8 MR. HUEBNER: As I described at the last hearing,
9 it was a very good reason we did not file this previously,
10 until we knew that we, at least, had a sufficient agreement,
11 in principle, to proceed to a disclosure statement with the
12 Sacklers. Laying out in technicolor for the Sacklers and
13 the whole world to see exactly what went into our thinking
14 and an appropriate, high-level assessment of the strengths
15 and weaknesses seemed decidedly ill advised in terms of the
16 type of negotiation we were in the middle of having with
17 them, which, candidly, has been pretty difficult and even
18 unpleasant at times, to be candid. No blame on any party.
19 It's just a simple description of the facts.

20 We're going to make, hopefully, life easier for
21 the Court and other parties. I actually believe that we
22 went -- essentially went through the TMT Trailer factors.
23 As the Court might imagine in the hundreds of special
24 committee meetings, they were always guided by what the
25 applicable law is and applying the facts to the law and

1 being comfortable that we were very, very well within the
2 borders of the 9019, sort of, approval rubric, and so there
3 wasn't any reason not to walk the world through sort of what
4 we believe the applicable law is and how the facts as we saw
5 them applied to the law.

6 While I otherwise express a view on it, the fact
7 that the Sacklers -- and as we promised we would do --
8 themselves have filed their sort of initial summary views of
9 the positions they would take, and certainly others are
10 going to take a diametrically opposite view, this is exactly
11 -- it sort of proves the point. We have defendants on the
12 one hand who believe passionately that they will deploy all
13 of their billions of dollars to sort of fight us to the
14 bitter end, because they believe they did nothing wrong and
15 have no liability.

16 We have a tremendous number of stakeholders who,
17 themselves, have tremendous resources, including those of
18 state and federal governments, who believe equally
19 passionately that great wrong was done here and that value
20 was taken out where it should not have been and they're
21 going to use those resources to extract the value that they
22 believe appropriate to balance the recompense for that, and
23 obviously, as the Debtors fiduciary, our job is, ultimately,
24 to listen to all that and if we can come to a settlement
25 that we believe balances those -- all of those concerns

1 under TMT Trailer, we bring it forth to sharehold -- to
2 creditors for a vote, and that's exactly what we have done.

3 With respect to Your Honor's other comments, I was
4 sort of right there with you when you were citing the
5 caselaw. Liquidation analysis is actually an issue we've
6 thought a lot about and given that that hearing was running
7 long, I decided not to engage in an overly long intellectual
8 colloquy about the place of third-party claims in doing a
9 best interest analysis, but in any event, I think there is
10 no doubt that the liquidation analysis now clearly takes
11 that possibility into account and cross references and is
12 express about the fact that direct claims would not be
13 released.

14 If you look at the disclosure statement Section
15 IV.b, and at the -- at 5 Note 3, you will see that now quite
16 clearly laid out for the parties. This is not really the
17 time, although as part of colloquy, it makes sense to
18 explain why we think that, even with direct claims retained
19 by third parties, there is just no possible legitimate
20 question that, sort of, people are doing better under this
21 plan than they would under an alternative, but obviously, if
22 we need to get into the merits of that, we'll do that at
23 confirmation, certainly not today, because it is a
24 confirmation burden to satisfy 1129. Today's burden is to
25 satisfy 1125.

1 So, let's, then, I guess, turn for just a high-
2 level flyby to the remaining objections, although, I should
3 also note, I think I said before, last time, but hopefully
4 the U.S. Trustee is smiling benignly upon us, since we put
5 in -- (indiscernible) remember the exact, like a 16-page or
6 something, plain English executive summary with charts and
7 grids and things like that. Their point, ironically, was
8 not that there was too little information, but there was
9 actually too much information, so much so, that it was
10 difficult for maybe hypothetical, reasonable individual
11 voter to synthesize and figure out what this was about.

12 And so, we just wrote a whole new section of the
13 disclosure statement. Rather than arguing about it, we just
14 did what we could to address it. And so, we feel pretty
15 good that anything that was an actual disclosure statement
16 objection to the adequacy of the disclosure, we resolved, in
17 some cases with two pages, in some cases, with 10 pages, in
18 some cases, with 20 pages, and of the stuff that's left,
19 just isn't a disclosure statement objection at all and,
20 candidly, we kind of wish that other parties would've taken
21 the thoughtful approach of the schools and West Virginia and
22 the distributors, who have really, serious confirmation
23 objections, as to which they are not satisfied.

24 You're allowed to not like the plan. You're
25 allowed to vote against the plan. You're allowed to object

1 to the plan. But that's going to happen in July or August.
2 Today's question is only, does the plan have enough
3 information for a hypothetical, reasonable creditor to cast
4 a vote. And so, the remaining objections, basically -- I
5 don't mean to be unkind -- but they're just all confirmation
6 objections. It's just that simple, and many of them, in
7 fact, right in their pleading, they say, this is, in
8 essence, a confirmation objection or this is a confirmation
9 objection.

10 And then there's that, like, thin little tendril
11 that they try to throw across the chasm to say, but our
12 confirmation objection is so awesome, so unthinkably great,
13 that this plan should not even be allowed to go out to
14 creditors for them to cast a vote about. People don't even
15 get their day in court. They shouldn't even be allowed to
16 vote. No voting. It's so illegal, that I just get to stop
17 it right now.

18 Well, the problem with that is that it virtually
19 never, ever happens, and for very good reason, which is the
20 standard, is almost impossible to meet, that the plan is so
21 fatally flawed, so unthinkably unlawful, that confirmation
22 is "impossible." The word is literally impossible, in In
23 re: Cardinal Congregate I, 121 B.R. 760 at 764, which is
24 why people just can't put together string cites, ever, of
25 large or even medium sized or even small sized cases, where

1 this objection actually prevailed, because it's like a 1 out
2 of 5,0000 thing where a court actually believes that the
3 plan is so insane, lunatic, illegal that it's just a waste
4 of time to send it out at all, and I would respectfully
5 submit that there is just no universe in which that is the
6 case.

7 Let me just spend two minutes dealing with a
8 couple of our issues. I actually, really went back and
9 forth and forth and back about whether to discuss the
10 confirmation objections embedded in supposed disclosure
11 statement objections at all, but since at the end of the day
12 that's all the objectors have to talk about, it seemed at
13 the end of the day, to say at least something was probably
14 the better approach.

15 I'm going to be quite brief. Obviously, we've
16 reserved many trial days for this at confirmation, and the
17 Court can be quite confident that win, lose, or draw, we are
18 going to be very ready to litigate with everything we have,
19 the propriety of this plan, which we believe in quite
20 strongly.

21 With respect to third-party releases -- and I'm
22 not going to attribute objections to individual parties
23 where I can help it, because these are sort of conceptual
24 issues and it's just about the law. The law is very clear
25 that third-party releases and their propriety is a

1 confirmation issue. I don't think that's open to question.
2 It's also pretty clear to me that White Plains and Manhattan
3 and Connecticut and lots of other places are actually in the
4 Second Circuit, where the law is also clear, as it is clear
5 in the majority of circuits, which I don't think anybody
6 disagrees with.

7 They don't always like to cite Metromedia. They
8 like to, sort of, pretend we're somewhere else, but we're
9 just not, and we wouldn't have been, in any circumstance,
10 because that's just not where these companies are. So, I'm
11 not going to quote the Court to the Court, because you've
12 actually expressed views at multiple hearings already about
13 third-party releases as, obviously, has the judge who heard
14 the appeal in this case, both in this case and in other
15 cases, including one from this Court, except to say, that
16 the notion that the third-party releases in this case, in
17 this circuit, are inherently, unthinkably illegal, is just
18 simply not -- it's just not credible, and I'll just leave it
19 at that. I won't be sharper than that.

20 There is no police power exception in Metromedia.
21 There is no caselaw supporting that claim, and if you
22 actually go and read the cases cited by the objectors, and
23 we really hope you do, all they do is prove that, as you
24 read each one with a highlighter and a pen in your hand.

25 With respect to whether we satisfied Metromedia as

1 this being, sort of, extraordinary circumstances and a
2 contribution by settling parties without whom the plan could
3 not proceed, again, I'll leave that to confirmation but I
4 would say this. Show me a case where somebody paid \$4.5
5 billion into the estate that likely constituted the
6 substantial majority of the consideration going to
7 stakeholders. Show me those facts and then show me a court
8 that found that it wasn't exceptional circumstances that
9 satisfied Metromedia.

10 With respect to subject matter jurisdiction, Your
11 Honor, we'll leave that for confirmation. I think that's
12 way -- it actually gives more time than I think is
13 appropriate at a disclosure statement hearing to go into
14 sort of the technical subpoints in the confirmation
15 objection filed at the disclosure statement hearing.

16 But Metromedia's words are rare circumstances or
17 unique. If this case is not unique and doesn't present rare
18 circumstances, then I don't know what case ever could
19 satisfy that standard. With respect to classification, Your
20 Honor, again, I'll just do a high level and sort of see what
21 we -- how much time we want to spend on it going forward.
22 It just -- it's among the most classic of all confirmation
23 issues, right, 1129 requires satisfaction of the 1122, and I
24 understand quite well that our main opponent at, virtually,
25 every hearing in this case and almost all hearing our only

1 opponent, why the nonconsenting states would love to be in
2 their own class so that if, as I very much hope and trust,
3 will not be the case by confirmation, you know, slightly
4 more than half of the states, themselves, are not there,
5 they can say that their class voted no.

6 I get it. They want to gerrymander the plan.
7 Like, I don't begrudge them effort. The problem is, it's
8 just not the law and they're not the Debtors and don't get
9 to have their own class because they would like to have
10 their own class to be able to say that their class voted no.

11 Whether their class voted no actually would change
12 the outcome in confirmation. There's another very
13 complicated issue that we're definitely not going to discuss
14 today, but again, this Court does not need me to describe
15 the caselaw under 1122 in the Second Circuit, and if
16 dissimilar claims can be classified together and similar
17 claims can be classified together only for a legitimate
18 reason.

19 We hit it at great length in our reply. I think
20 I'm just going to rest on that, because we've got a lot to
21 cover, but at the end of the day, there's just nothing more
22 classic as a confirmation objection in classification and
23 the notion that our classification is so illegal that it
24 makes conformation "impossible." We urge the Court to deny.

25 I would also note, since it does matter what other

1 Courts have done in other mega-cases, including other mega-
2 cases in which these very parties are currently involved,
3 that what we're doing is quite common, including in PG&E in
4 California and Insys, other currently pending -- actually, I
5 guess, (indiscernible) there, too -- opioid case.

6 So, I'll leave it at that. the notion that all
7 the public side agreed to go into NOAT, to be part of the
8 NOAT TDP, to work out who gets what within NOAT, to have
9 NOAT be a single pot, and then to say, but no, no, no. But
10 for voting, we're radically different and so much of your
11 plan is totally illegal and needs to be buried right now and
12 no one gets to have a view on it, it's just not something
13 that we can agree with.

14 With respect to the TDPs, I'll leave that to Mr.
15 Klein and Mr. McClammy. This is the objection of Mr.
16 Jackson. Suffice it to say that they'll have a lot to say
17 on that.

18 And then the best interests test, again, you know,
19 this is Professor Lipson, who, I think, filed a pro hac and
20 joined our case a few weeks ago representing a single tort
21 claimant, Mr. McClammy will address that, but again, there's
22 no -- there's nothing more classic as a confirmation
23 objection than, especially, a single part out of 614,000
24 alleging a plan can't pass the best interest test, which,
25 obviously, is among the most classic of all 1129 issues.

1 So, at its face, and with this, I will close. We
2 have added, for disclosure and more sections and more pods
3 and more charts and more language and more plain English and
4 more executive summaries than I think have been -- I don't
5 know how to end that sentence. I'll just back out of there.
6 We have had an incredible amount of all those things, and we
7 believe that in more than some places, we believe that the
8 tiny, tiny number of remaining disclosure statement
9 objections are all classic confirmation objections.

10 Frankly, while we hope and expect that every one
11 of those parties will be satisfied by the time we get to
12 confirmation in whole or part, we stand more than ready
13 along with overwhelming number of stakeholders and
14 stakeholder groups who support this plan, to defeat every
15 one of those objections at confirmation. We would not be
16 proposing a plan that we and many other key stakeholders did
17 not believe was lawful, and the notion that it is so
18 impossibly illegal that no one should be allowed to form a
19 view on it, vote on it, or have their objections actually
20 heard and responsibly addressed at a confirmation trial, is
21 obviously a position with which we passionately and
22 strenuously disagree.

23 So, Mr. McClammy, I think, if I'm right, that I
24 now pass the podium to you for a slightly more, sort of,
25 detailed connectivity to maybe some of the objections

1 (indiscernible) that you're handling. If I'm wrong, please
2 correct me, but if I'm right, I'll just smile benignly and
3 put myself on mute.

4 MR. MCCLAMMY: Good morning, Your Honor. Jim
5 McClammy of David Polk on behalf of the Debtors. Are you
6 able to hear me, Your Honor?

7 THE COURT: Yes, I can see you, too.

8 MR. MCCLAMMY: Great, great. Thank you, Your
9 Honor. As much as I would like to correct Mr. Huebner,
10 (indiscernible) the attorney for some of the specific
11 objections, but I also wanted to take care of an evidentiary
12 matter, and it makes sense to do that. We have Ms. Finegan
13 available on the video and she filed a supplemental
14 declaration in connection with the notice program for
15 confirmation, if that works.

16 THE COURT: Okay. You're asking to have that be
17 admitted as her direct testimony?

18 MR. MCCLAMMY: Exactly, Your Honor. Her
19 declaration sets out at Docket No. 2917, some of the
20 additional notice that has been requested, both by the
21 shareholders and other parties here with the understanding
22 that even with how broad the bar date notice was at that
23 time, we had not yet reached full agreement among the
24 various parties with the shareholders, and there was no
25 description of the shareholder releases at that time.

1 So, in addition to making sure that we are serving
2 everybody who filed a proof of claim in this matter, we also
3 have some additional publication notice, both here in the
4 United States and Canada and outside of the U.S. as well, as
5 described in Ms. Finegan's declaration. I'm happy to walk
6 Your Honor through the details, but otherwise, I would ask
7 that that declaration be admitted into evidence. As I
8 mentioned, Ms. Finegan is here and available on the video
9 conference, if there were anyone that had questions.

10 THE COURT: Okay. Well, let me swear in Ms.
11 Finegan and ask her to confirm her declaration. Would you
12 raise your right hand, please. Do you swear or affirm to
13 tell the truth, the whole truth, and nothing but the truth,
14 so help you God?

15 THE WITNESS: Yes, I do. This is Jeanne Finegan.

16 THE COURT: And it's F-I-N-E-G-A-N?

17 THE WITNESS: That's correct, Your Honor.

18 THE COURT: Okay. So, Ms. Finegan, you submitted
19 a second supplemental declaration in connection with the
20 Debtors' request for approval of solicitation procedures,
21 knowing that it would be your direct testimony today in
22 support of that motion or application. Is there anything
23 that you would wish to change?

24 THE WITNESS: No, Your Honor.

25 THE COURT: Okay. So, we're not really that point

1 of the hearing to deal with solicitation procedures. I
2 don't know whether anyone, however, thinks that they would
3 want to cross examine Ms. Finegan, and maybe it makes sense
4 to ask that. You don't have to necessarily commit to it,
5 but if you think you might, you should let me know.
6 Otherwise, I think I'll excuse her. I don't have any
7 questions on her declaration and I'd be prepared to admit it
8 into evidence.

9 Mr. Troop?

10 MR. TROOP: Your Honor, just a question. I just
11 want to be clear because I -- and I'm sorry, I was off
12 because I was trying to (indiscernible) because I wasn't
13 expecting to talk now.

14 THE COURT: We can keep her here. You don't have
15 to -- we could come back to this.

16 MR. TROOP: No, I don't want to keep Ms. Finegan
17 here if she doesn't need to be --

18 THE COURT: Okay.

19 MR. TROOP: I just have a simple question.

20 THE COURT: All right.

21 MR. TROOP: Which is, and I -- she's sworn for
22 this, but anyone on the Debtors' side can answer it. I just
23 want to make sure that the \$8.1 million that's estimated for
24 the solicitation costs, in fact, includes all the
25 publication notices. Because in the paragraph on -- in the

1 paragraph talking about publication notices, it's the only
2 part that doesn't seem to have a specific dollar amount that
3 was associated with it, and so I just wanted to make sure
4 that it wasn't -- that's included in the total. That's all.

5 THE COURT: Can you answer that, Ms. Finegan?

6 THE WITNESS: This is Jeanne Finegan, and yes,
7 that total cost includes all publication elements.

8 THE COURT: Okay.

9 MR. TROOP: Thank you, Ms. Finegan. Your Honor, I
10 won't be cross examining, so (indiscernible).

11 THE COURT: Does anyone else have a desire to ask
12 Ms. Finegan any questions on her declaration? You don't
13 have to do it now, you just have to tell me now, in which
14 case, I'll ask her to stay on the line for when it would be
15 appropriate to do so, when we turn to that motion.

16 Okay, you can sign off, Ms. Finegan.

17 THE WITNESS: Thank you, Your Honor.

18 THE COURT: And the declaration, the second
19 supplemental declaration, is admitted, Mr. McClammy.

20 (Finegan Declaration Admitted Into Evidence.)

21 MR. MCCLAMMY: Thank you very much, Your Honor. I
22 appreciate that. And then, I guess with Your Honor's
23 guidance, I can turn to some of the individual objections.
24 I would --

25 THE COURT: Well, why don't --

1 MR. MCCLAMMY: -- anyone handling --

2 THE COURT: I mean, you put them in order as to
3 the exhibit to the reply. Many of those in front have been
4 resolved, but the first one is not, I gather, been
5 completely resolved, which is the U.S. Trustee's objection
6 to the disclosure statement, and there are some other
7 disclosure statement objections that "adopt" or join in
8 those objections, so why don't we go with that one, first.

9 MR. MCCLAMMY: Thank you, Your Honor. I believe
10 Mr. Robertson will be handling the U.S. Trustee's objection.

11 THE COURT: Okay, and then after that, we can go
12 in the order that you want to go in, but I'd like to focus
13 on specific ones in each case.

14 MR. MCCLAMMY: Certainly, Your Honor.

15 MR. ROBERTSON: Thank you, Your Honor.
16 Christopher Robertson, Davis Polk and Wardwell, on behalf of
17 the Debtors. Can you hear me clearly?

18 THE COURT: Yes.

19 MR. ROBERTSON: Thank you, Your Honor. So, for
20 the U.S. Trustee's objection, there are a number of points I
21 would categorize as --

22 THE COURT: Can I interrupt you, Mr. Robertson?
23 Can I interrupt you?

24 MR. ROBERTSON: I'm sorry, go ahead.

25 THE COURT: I'd like to hear from the U.S. Trustee

1 as to what the office is still pursuing, and it may be that
2 I can deal with it. I've reviewed the objection. I've
3 reviewed the reply. I've reviewed the plan and disclosure
4 statement. So, that may be most efficient here, and then
5 you can -- if there's something that we've left out, you can
6 chime in.

7 MR. ROBERTSON: That's perfect, Your Honor.

8 THE COURT: Okay. So, I think it's going to be
9 Mr. Schwartzberg from the U.S. Trustee's Office. I think
10 you're on mute, sir.

11 MR. SCHWARTZBERG: I apologize. I hit the wrong
12 button. Paul Schwartzberg on behalf of the U.S. Trustee,
13 Your Honor. Good morning.

14 THE COURT: Good morning.

15 MR. SCHWARTZBERG: If there's a general noise in
16 the background, an air conditioner, I turned it off --

17 THE COURT: I can't hear it, so that's fine.

18 MR. SCHWARTZBERG: Okay. It's bugging me, Your
19 Honor. So, Your Honor, in regard to the disclosure
20 statement, the U.S. Trustee does acknowledge various and
21 many of our objections have been resolved. We do have a few
22 remaining ones. In regard to the disclosure statement, the
23 U.S. Trustee has a concern in response to the shareholder
24 releases that were just set forth on the May 24th disclosure
25 statement that was filed. Those shareholder releases were

1 set forth for the first time.

2 I have not had an opportunity to look at what was
3 filed today or this morning, but in regard to that, the U.S.
4 Trustee believes a major part of the case is the shareholder
5 releases, and investors should know who's being released and
6 if the parties that are being released are contributing to
7 the plan, and it is unclear from Section 10.7 of the plan
8 and disclosure statement who, in fact, is being released.

9 Although, the shareholder releases clearly include
10 the Sackler family members, which include the descendants of
11 Raymond and Mortimer Sackler, and their trusts and related
12 trusts and related parties, however, the shareholder
13 releases also include persons identified on the annex to the
14 settlement agreement and it's really unclear who these
15 people are going to be. If it's not the Sackler family
16 members and their trusts and related parties, the disclosure
17 statement should identify who these parties are.

18 Simply, it's unclear if everyone receiving release
19 is contributing to the plan. The disclosure statement is
20 silent on who, in fact, is contributing to the plan and if
21 there are released parties who are not contributing to the
22 plan.

23 A hypothetical investor should know who's being
24 released and what, if anything, they're contributing to
25 receive that release. That is not in the disclosure

1 statement. Also, Your Honor, the parties providing releases
2 include not only the releasing parties, but "all other
3 parties." Releasing parties are defined to include, among
4 other things, all holders of claims, but it's unclear who
5 and why --

6 THE COURT: I'm sorry. I want to make sure I
7 understand. I don't -- are you reading from the definition
8 of releasing parties or the release provision of the plan?

9 MR. SCHWARTZBERG: Your Honor, that, I believe --
10 and since it just popped up -- is in the definition of
11 releasing parties. And just -- Your Honor, so you don't
12 think I'm bringing -- because this is an issue that came up
13 on May 24th -- I did raise this with -- I apologize, Your
14 Honor. It's in the definition -- it's in the Section
15 10.7(b).

16 THE COURT: So, I'm sorry. That language says
17 "shall be released by the releasing parties."

18 MR. SCHWARTZBERG: It says, "on or behalf of the
19 releasing parties or any other persons."

20 THE COURT: But it's only -- but the release is by
21 the releasing parties. If they have a claim on behalf of
22 some other person, they're releasing it. But the release is
23 given by the releasing parties, no one else.

24 MR. SCHWARTZBERG: Your Honor, that -- if that's
25 the way it's defined, that would be helpful. I had asked

1 the Debtors this on the 25th and I was waiting for a
2 response and I hadn't gotten that response yet.

3 THE COURT: Well, is that right, Mr. Robertson --

4 MR. ROBERTSON: So, Your Honor --

5 THE COURT: -- I mean, it's the releasing parties
6 that are getting the release. They may --

7 MR. ROBERTSON: So, Your Honor --

8 THE COURT: They may have claims held on behalf of
9 other parties, but obviously, if they hold those claims,
10 they have the ability to release them. If they don't, they
11 don't, right? Am I missing something there?

12 MR. HUEBNER: I wouldn't say -- Your Honor, I'm
13 going to jump in for a second, with apologies to Mr.
14 Robertson. I wouldn't say you're missing something. I
15 would say that I'm not sure that's the intent of the
16 provision. I think Mr. Schwartzberg actually has it right,
17 which is that the deal that we struck was that we would seek
18 to obtain a release with respect to all other persons as
19 well, because the Sacklers are paying \$4.275 billion and
20 they very much plan, expect to be done forever with this
21 chapter.

22 And while it's not easy to identify the category
23 we're talking about, if somehow there is someone who is not
24 a holder of a claim or interest against Purdue but is an
25 other person, they would like that and we have agreed to

1 submit an order that provides for that being resolved and
2 released as well. As we are going to be very prepared to
3 show you at confirmation, this is not atypical in mass tort
4 cases and there are other sort of famous cases you would
5 know that have done that as well, but again, it's just not a
6 today issue. This is the disclosure statement hearing, and
7 the fact that we've been talking about --

8 THE COURT: Well, given that I was confused about
9 it as well as Mr. Schwartzberg, I think you need to make it
10 clear in the disclosure statement that it covers even those
11 who are not releasing parties.

12 MR. HUEBNER: Okay. Yeah, that we could certainly
13 do. Send us a disclosure statement objection, Your Honor,
14 as you know, we only have one answer, which is, let's add
15 more disclosure and make it more clear, so maybe it's a
16 parenthetical that says, even those who are not holders
17 (indiscernible) or something like that, so we'll figure
18 something out that works, that makes it clear, and if by the
19 time we get to confirmation, someone is unhappy about that,
20 we will present argument and the Court will decide.

21 THE COURT: Okay.

22 MR. SCHWARTZBERG: Your Honor, can I further that
23 point in terms of -- regarding the disclosure? It's
24 unclear, then, if all other persons include people who are
25 not voting on the plan, who are receiving a distribution

1 under the plan.

2 THE COURT: Well, that's clear.

3 MR. SCHWARTZBERG: I'm still not --

4 THE COURT: That's clear, because that applies to
5 the 1126 no distribution folks.

6 MR. ROBERTSON: If I could jump in for one (sound
7 drops). It's Chris Robertson on behalf of the Debtors. Just
8 to address that point that Mr. Schwartzberg brought up
9 earlier, the annexes that are referenced in the shareholder
10 release party definition have been filed as of this morning.
11 They're attached to the amended disclosure statement as is a
12 detailed settlement terms sheet describing the terms of the
13 shareholder settlement.

14 THE COURT: So, each of the released parties, the
15 parties in addition to the shareholders, they're describe
16 now in the exhibit or the annex?

17 MR. ROBERTSON: That's right. They're -- that's
18 right.

19 THE COURT: They're listed. Okay.

20 MS. LIBBY: Your Honor --

21 MR. ROBERTSON: That's correct.

22 MS. LIBBY: Sorry. Your Honor, Angela Libby on
23 behalf of the Debtors. (indiscernible) jumping in. I just
24 want to be very clear on this. There's a definition, in the
25 plan, that describes the categories of people who are being

1 released. It is kind of standard categories of the types of
2 people that you would sort of be expecting to be released.
3 That category is in the plan. I think it's laid out in
4 terms of categories. In addition, as part of that
5 definition, there was a reference to annexes and a specified
6 list of people who were, sort of, in addition to those
7 categories, and in it -- it's fair to say that that was not
8 filed before this morning.

9 It is those -- that exhibit with those additional
10 lists of specified parties in addition to categories in the
11 definition that were filed as of this morning.

12 THE COURT: Okay.

13 MS. LIBBY: Thank you, Your Honor.

14 MR. SCHWARTZBERG: Your Honor, and I'd just like
15 to follow up, and maybe I didn't understand what Your Honor
16 had indicted, but it still is not clear to me that the
17 disclosure statement is clear on who all other persons are
18 and Your Honor had referenced something, but I'm not exactly
19 sure if it referenced or answered my question, if people who
20 are not actually voting on the plan, are being forced to
21 provide releases.

22 MR. HUEBNER: Yeah, so let me help, Mr.
23 Schwartzberg. Again, we owe you a huge apology. We know
24 how many cases you deal with and documents are literally
25 hitting the docket in volume. We will further clarify it.

1 That's what I was trying to say before and I was clearly
2 inarticulate.

3 As the judge said, he, himself, was snagged by our
4 ambiguity and our less than perfect drafting, and we will
5 fix that imperfect drafting, add a term (indiscernible) or
6 something that says, including parties who are not holders
7 of claims or interests against the Debtors -- not sure I'm
8 getting that exactly right, although Angela -- Ms. Libby
9 rarely nods when I say things, and she looks like she's
10 nodding, so maybe my (indiscernible) is not far off the
11 mark, so we will make it very clear and we will run the
12 language by you, although, I think it is as simple as saying
13 something like including the persons who are not holders of
14 claims or interests against the Debtors, and then, there
15 will be no ambiguity whatsoever, and if people are unhappy
16 about the legality of that at confirmation, we will
17 (indiscernible).

18 MR. SCHWARTZBERG: Obviously, we observe our right
19 to getting that information, and also looking at the annexes
20 that were filed. But with respect to the releases, Your
21 Honor, the United States -- in regard to the releases, the
22 United States reserves its rights for confirmation and those
23 were our disclosure statement objections to the releases,
24 mostly due to this -- the information that was filed on the
25 24th. We have a few other issues, Your Honor --

1 THE COURT: Well, let me just cover this one point
2 before we go further. I don't think it's a disclosure
3 statement requirement to list the contribution by each party
4 who's getting a release. That is a confirmation issue as
5 opposed to a disclosure statement issue, and similarly, I
6 believe that when one gets to the categories of agents or
7 persons acting on released parties' behalf, they do not have
8 to be specifically identified, but it has to be clear who is
9 getting the release.

10 Now, I had a question pertaining to the plan and
11 disclosure statement related to that point, though. The
12 plan has a defined term, excluded parties, and there's a
13 reference to a schedule of excluded parties. It's not clear
14 to me how that term, though, excluded parties, ties into the
15 term released parties. I don't see any language, maybe I'm
16 missing it, that says that a released party is everyone that
17 fits into this definition or now that we -- it's clear that
18 -- who, generally, the released parties are, I didn't see an
19 exception that said, except that it won't include the
20 excluded parties. Is that contemplated? Because I didn't
21 see that in the plan. If not, what is the purpose of the
22 definition, excluded parties?

23 MR. HUEBNER: So, Your Honor, it's definitely
24 contemplated. I'm very much hopeful that either Mr.
25 Robertson or Ms. Libby is about to come off mute and point

1 you to where in the document the excluded parties are
2 actually excluded from the releases, because otherwise, it
3 actually would be rather farcical, and while we do many
4 things, we attempt not to be farcical during the day when we
5 practice law, so if I could ask somebody from Davis Polk to
6 please point the judge to where the phrase excluded parties
7 is used as a carveout from the releases, I'd be grateful.

8 MR. KLEIN: Your Honor, it's Darren Klein from
9 Davis Polk & Wardwell. Can you hear me?

10 THE COURT: Yes.

11 MR. KLEIN: I'll attempt to answer this one, as
12 well, Your Honor. In the plan, excluded parties shows up at
13 proviso to the definition of released parties, and the
14 proviso reads, "provided, however, that notwithstanding the
15 foregoing," which is laying out who the released parties
16 are, "or anything herein to the contrary, no excluded party
17 or shareholder released snapback party shall be a released
18 party (sound drops)."

19 THE COURT: Okay. All right. Maybe I just
20 skipped over that when I was reading it. But you're exactly
21 right. It's in the definition of released parties. Okay.
22 And that list is going to be filed with the plan supplement,
23 correct?

24 MR. KLEIN: I believe that is correct, Your Honor.

25 THE COURT: Okay. All right.

1 MS. LIBBY: And, Your Honor, while we're winding
2 it up, the other definition of released parties is the
3 shareholder released parties and you'll see that there's the
4 same proviso at the end with respect to excluded parties are
5 also carved out of that definition.

6 THE COURT: Okay, very well. All right. So, Mr.
7 Schwartzberg, you were going to go on with other objections
8 that remain?

9 MR. SCHWARTZBERG: Yes, just a few, Your Honor.
10 One, the disclosure statement indicates that there's going
11 to be a payout by the Sackler parties over a nine-year
12 period, and obviously, these are Debtors seeking -- non-
13 Debtors seeking releases.

14 For a debtor to get a discharge, they have to
15 disclose financial information, liquidation analysis,
16 financial (indiscernible), however, there's no information
17 being disclosed about financial information about these
18 parties to obtain releases, so without that information,
19 there should at least be an explanation as to why the
20 payments are being made over nine years rather than, for
21 instance, a lump sum payment. Is it that the Sackler
22 families don't have the sufficient liquidation to do it
23 currently or is it just for some other reason?

24 I can go on my next point, Your Honor.

25 THE COURT: Well, why don't we hear the response

1 to that? I, frankly, it's not, to my mind, necessary. It
2 might be helpful. It's more of a, I guess, an issue as to
3 evaluating the settlement generally, which is discussed at
4 length, but is there a quick response to that, Mr.
5 Robertson?

6 MR. ROBERTSON: Yes, Your Honor. I mean, we set
7 forward, I think, more than fulsome disclosure on the
8 settlement, and we don't think that we have to describe the
9 terms of a different deal or hypothetical deal --

10 THE COURT: No, I don't think Mr. Schwartzberg is
11 asking for a description of alternatives. I think just,
12 what is the rationale for the parties having agreed on a
13 nine-year payout or, you know, extended payout.

14 MR. ROBERTSON: I think that, ultimately, the
15 answer is that it was part of a very detailed and intense
16 negotiation over many, many months, if not years, in this
17 case and that there's no -- I'm not sure exactly what Mr.
18 Schwartzberg is looking for us to say about it.

19 THE COURT: It's part of the overall --

20 MR. ROBERTSON: (indiscernible).

21 THE COURT: -- in essence.

22 MR. ROBERTSON: (indiscernible), yeah.

23 THE COURT: All right. I think that's really more
24 for the purpose of evaluating the issue at confirmation, Mr.
25 Schwartzberg.

1 MR. HUEBNER: And, Your Honor, just to give the
2 Court another -- or at least, comfort that the four parties
3 facing the Sacklers have had time period negotiations --

4 THE COURT: No, that's clear from the disclosure
5 statement. It's clear that there are many parties who've
6 negotiated this agreement.

7 MR. HUEBNER: No, no, agree. I just wanted to
8 give one substantive point I think might be helpful.

9 THE COURT: Okay.

10 MR. HUEBNER: Which is, there are ten different
11 Sackler pods and they have very different levels of wealth,
12 and potentially, very different levels of exposure. And for
13 some of them, frankly, liquidating the IACs and having the
14 Sacklers, essentially, get out of the world (indiscernible),
15 which was very important to many people on our side, is
16 actually necessary to create a liquidity to pay these sums,
17 which, despite the Sacklers' wealth, are material sums.

18 And so, it's not just that we cut the best deal we
19 could and there were four huge parties facing the Sacklers,
20 but there were real rationales for some payment over time,
21 including the need to liquidate assets to generate \$4.5
22 billion, which is, obviously, not a trivial sum. So, I just
23 don't want people to think that we sort of did a terrible
24 job, because I don't --

25 THE COURT: Well --

1 MR. HUEBNER: -- actually think --

2 THE COURT: I guess Mr. Schwartzberg's point is,
3 why don't you put in a sentence that says that.

4 MR. SCHWARTZBERG: Exactly, Your Honor.

5 MR. HUEBNER: Yeah, let us work on that. I don't
6 see why that should be an issue. Among the considerations
7 were the Sacklers --

8 THE COURT: The size of the contribution and --

9 MR. HUEBNER: -- claims representation --

10 THE COURT: -- the nature of their assets.

11 MR. HUEBNER: Yeah. Yeah, and clearly the
12 Sacklers' representation that they needed to liquidate IACs
13 and other holdings to generate the cash payments required by
14 the settlement, again, we'll work with the Sacklers because
15 we're a little bit saying what they told us, part of
16 negotiations. Obviously, UCC, AHC --

17 THE COURT: This is --

18 MR. HUEBNER: -- but --

19 THE COURT: This is just from the Debtors'
20 perspective. We don't need to get into what the Sacklers
21 told you, just your --

22 MR. HUEBNER: Okay, good. Even better. Too bad,
23 Sacklers. We don't care what you think. We'll come up with
24 a couple of sentences and put them in.

25 MR. SCHWARTZBERG: I wanted to hear if Marshall

1 had anything else to day.

2 MR. TROOP: I was (indiscernible).

3 THE COURT: We can't hear you, Mr. Troop.

4 MR. TROOP: I'm sorry. I thought Mr. Huebner said
5 that he wasn't farcical during the day.

6 THE COURT: Okay. All right, Mr. Schwartzberg,
7 you want to go on?

8 MR. SCHWARTZBERG: Your Honor, I do have two
9 comments that related to both the disclosure statement and
10 also the proposed order for those solicitation and voting
11 procedures.

12 THE COURT: right.

13 MR. SCHWARTZBERG: The first deals with the plan
14 supplement, including the shareholder settlement agreements.
15 Our initial objective had indicated that the five days that
16 they had sought, which, I believe, to file those documents
17 prior the voting deadline, was insufficient, not only
18 because it included a (indiscernible) the summer and
19 included a weekend. They've agreed to push that out to
20 seven days. The U.S. Trustee still believes these are
21 voluminous documents that are being filed pretty close to
22 the voting deadline. They contain the trust documents.
23 They contain, most importantly, the shareholder settlement
24 agreement, and we believe seven days is just -- which also
25 include the weekend -- is not sufficient.

1 Not everybody has the ability to read and digest
2 these things in just a few hours, and so, we believe that
3 the plan supplement should be filed ten days prior to the
4 voting deadline, extend it out a little bit more and get a
5 little more than a week (indiscernible).

6 THE COURT: Okay --

7 MR. SCHWARTZBERG: Also --

8 THE COURT: I did have a question on the
9 solicitation procedures on how that timing works, and I
10 think we could come back to that. But I think the key
11 point, the first key point to recognize here, is that
12 there's more than one plan supplement. In fact, you're
13 filing plan supplements all the time. I think the seven
14 days is the outside date for the last plan supplement, and I
15 think that should be made clear, and I think it also is, as
16 I understand it, and I think Ms. Libby just said this, you
17 filed or will be filing today the terms sheet for the
18 settlement agreement, correct?

19 MR. ROBERTSON: Your Honor, this is --- go ahead,
20 go ahead.

21 MS. LIBBY: I'm sorry. Your Honor, immediately
22 before this hearing, at the start of this hearing, we filed
23 an updated terms sheet of the settlement agreement that had
24 significantly more detail. In addition to that, we filed a
25 series of what we're calling the credit support terms sheets

1 that really have significant levels of detail on the
2 collateral and the covenants that each of the pods will be
3 subject to. In addition to that, we filed a terms sheet
4 that deals with the post-effective date issues related to
5 things that can come up on a table.

6 So, we have already filed, really, a series of
7 terms sheets this morning that are really, really quite
8 detailed and, of course, those will be turned into
9 definitive docs before the plan supplement deadline.

10 THE COURT: Right. So, I think I'm comfortable
11 with the seven days, generally, because of the filings that
12 are happening.

13 Obviously, if something is materially different,
14 which I don't think will happen, because of all of the
15 agreements among the parties that have negotiated these
16 agreements for their approval being necessary for any
17 change, but as far as the trust documents are concerned,
18 again, the trust distribution documents have, in large
19 measure, been filed or described already, and it's one thing
20 if what's filed seven days before the confirmation hearing
21 is materially different than what's described in the plan or
22 in the earlier documents, but I don't think that's what's
23 contemplated here.

24 So, I think the seven days is sufficient, except
25 where it's agreed by the Debtors, they're doing it earlier

1 in a couple of places.

2 MR. SCHWARTZBERG: Your Honor, yes. I just wanted
3 to point out, I believe the VIP Trust documents will be
4 filed 14 days before --

5 THE COURT: Right.

6 MR. SCHWARTZBERG: -- voting deadline.

7 THE COURT: Right. That --

8 MR. SCHWARTZBERG: Appreciate that, so I wanted --

9 THE COURT: -- that earlier.

10 MR. SCHWARTZBERG: Hold Debtors' feet to the fire
11 on that.

12 THE COURT: Right.

13 MR. SCHWARTZBERG: Also, in connection with the
14 solicitation and the disclosure statement, I just note --
15 and it's on Page 282 of the May 24th disclosure statement.
16 It provides that if no holders of claims in a particular
17 class that is entitled to vote on the plan, vote to accept
18 or reject the plan, then such class shall be deemed to
19 accept the plan. My concern there, Your Honor, is if all
20 the class either don't vote or vote against the plan, so
21 that we're in a situation where nobody, no class has voted
22 affirmatively to the plan, the Debtors use the non-vote to
23 confirm the plan.

24 THE COURT: I understand that point, but I think,
25 two things. First, it's addressing an issue that I think is

1 highly unlikely to happen, the 1129(a)(10) issue. Secondly,
2 the Courts are in dispute about it, including in the
3 Southern District. There's an opinion, an early opinion, by
4 Judge Brozman saying you can't do that. There's a later
5 opinion by Judge Gerber that says you can. Collier says the
6 courts are divided on this issue. Judge Gerber's opinion
7 makes it clear that it's very fact based, and it ties in, as
8 you said, to the 1129(a)(10), there must be at least one
9 accepting impaired class point for confirmation.

10 And I think it's not, under those circumstances,
11 worthwhile to decide that issue now. I did have, in my
12 comments to the disclosure statement, a comment -- and when
13 I go through them, I'll give it to you all -- that says,
14 "the Debtors will assert," and then go on with the language.
15 And the plan also provides, and the disclosure statement
16 provides, that if the Court disagrees with something like
17 that, then that's the end of it.

18 But, you know, given the -- there are two reasoned
19 cases by good judges, In re: Adelphia Communications Corp.,
20 368 B.R. 140 at 259-60 (Bankr. S.D.N.Y. 2007) and In re:
21 Tribune Co. -- that's Judge Walrath -- 464 B.R. 126 at 183-
22 84 (Bankr. D. Del. 2011), that disagree with the U.S.
23 Trustee's position. I recognize there are other cases that
24 go the other way and in small cases, I have gone the other
25 way, as Judge Gerber said he probably would go the other way

1 in In re: Adelphia Communications.

2 The circuit in the Ruti-Sweetwater case, the Tenth
3 Circuit, was relied on by Judge Gerber for his ruling, but
4 there's a District Court opinion out of Chicago, In re:
5 Vita Corp., 380 B.R. 525, 528 (C.D. Ill.) -- I guess it's
6 not out of Chicago, it's out of the Central District if
7 Illinois, 2008, that takes the view you've espoused as did
8 Judge Brozman in the Friese case, F-R-I-E-S-E, that Judge
9 Gerber contrasts in his opinion.

10 But, to me, this is just not worth fighting about
11 at this point. It may never happen. By the way, the law
12 seems pretty clearly to have moved that you just need an
13 accepting impaired class for a plan, even though it's for
14 multiple Debtors, so this may never come up and I'm just not
15 prepared to address it at this point, as long as it's clear
16 in the disclosure statement that the Debtors will assert
17 this position and that people don't vote at all at their own
18 risk.

19 MR. SCHWARTZBERG: All right, Your Honor. I was
20 going to go into the facts in the Adelphia case, which --

21 THE COURT: It's not worth it. These are fact
22 based, too, and we -- I want to avoid making a fact-based
23 determination without the facts, which is the case at this
24 point.

25 MR. SCHWARTZBERG: All right --

1 THE COURT: One thing that Judge Gerber made clear
2 in Adelphia is that part of his fact-based determination was
3 based on the warning that the Debtor gave people in the
4 disclosure statement that they would take this position, so
5 I think I just want to highlight that warning a little more
6 than it is now.

7 MR. SCHWARTZBERG: The last, Your Honor, is --
8 it's more of a reservation of rights. Section 5.8 of the
9 plan is a new section and Mr. Huebner had spoken about it,
10 which is going to have over half a million dollars of funds
11 going to pay attorney fees, so the U.S. Trustee really
12 hasn't had the time to actually sit down and review
13 (indiscernible), so we just reserve our right to address
14 this issue at confirmation.

15 THE COURT: Right. That's fine. And I know, Mr.
16 Huebner, you said that the parties are still working on
17 this, at least as far as the special fund or the enhancement
18 fund. I want to make sure that when they're doing it, that
19 they recognize and make it clear that 1129(a)(4) applies
20 here with respect to any fees that aren't fees for future
21 work, as opposed to past work, to the extent required in
22 1129(a)(4). This isn't just, you know, a free pass to get
23 paid, in other words.

24 MR. HUEBNER: Yes, Your Honor. We certainly are
25 aware of those code provisions and this is definitely

1 something that's (indiscernible), and I think you're exactly
2 right, which is, the primary thing that is open is
3 essentially the common benefit fund --

4 THE COURT: Right.

5 MR. HUEBNER: -- allocation, like, of the private
6 side groups. The public side -- Mr. Schwartzberg is quite
7 correct -- the number does, in fact, on the public side, for
8 the public side's own lawyers, approach something like \$500
9 million which is, obviously, an extremely material sum.
10 That said, the expected distributions to the public side
11 are, hopefully, in the \$5 billion range and I'm guessing
12 that -- I'm not a mass tort expert -- but that what
13 essentially is, you know, arguably a 10 percent fee, you
14 know, may well fit extremely comfortably on the spectrum of
15 reasonable.

16 Again, I don't want to over speak or under speak.
17 It's not my area, but obviously, these would all be things
18 that we'll be ready to discuss at confirmation, to the
19 extent people are unhappy about them and want to bring --
20 press and, sort of, the like, it will all need to be
21 resolved. The good news, again, for today -- I really do
22 hate to sound like a broken record, not that people below 25
23 even know what a broken record is -- but these are just
24 classic confirmation objections and if they're still there
25 at the time, just like if all 19 classes vote no, which I

1 view as kind of a zero probability event, we'll be happy to
2 discuss it at the time with our opponent as to lawful, but
3 the Courts guidance of make it more clear that that's a
4 possibility, is exactly how disclosure statement objections
5 should be resolved, and of course, we're furiously, you
6 know, annotating a document every time something is
7 suggested at this morning's hearing.

8 THE COURT: So, on the 5.8 discussion, in the
9 disclosure statement, though, I think you need to add a
10 sentence that says that all of these fees will be subject to
11 1129(a)(4) to the extent that 11 -- you know, to the extent
12 that they are for, and then you can just quote what
13 1129(a)(4) covers.

14 MR. HUEBNER: Yeah, I don't think we're allowed to
15 do things in the bankruptcy court that violate the
16 Bankruptcy Code. I cannot imagine --

17 THE COURT: I just want it to be clear. I don't
18 want some attorney to think that he or she is not going to
19 have to do that. It needs to be clear. And I'm saying
20 this, in part, because I was -- at least with regard to the
21 public side, somewhat puzzled by the amount, given that
22 payments have been ongoing since the start of the case, at
23 least with regard to the Ad Hoc Committee and others. So,
24 it's just -- I agree with Mr. Schwartzberg. The Court needs
25 to have a handle on this.

1 MR. SCHWARTZBERG: Your Honor, if I could just
2 add, on the disclosure statement side of it, it was still
3 unclear to me, at least for the noncommon benefit fund, how
4 the payouts or the requests for payouts from those funds
5 were to be made and the decisions to determine --

6 THE COURT: That's why I --

7 MR. SCHWARTZBERG: -- amount --

8 THE COURT: That's why 1129(a)(4) is so important.
9 I agree with you.

10 MR. SCHWARTZBERG: Then, with that, Your Honor, I
11 have nothing else for today.

12 THE COURT: All right.

13 MR. SCHWARTZBERG: Other than, as I indicated, we
14 reserve our rights regarding the confirmation, which, of
15 course, Your Honor had indicated before --

16 THE COURT: Okay. Thank you. And I do -- there
17 was one other point that was made in the objection and I
18 gather you're not pursuing it, but I do want to address it.
19 It suggests that the plan could not protect the trusts or
20 NewCo or TopCo claims that they couldn't be channeled to the
21 sources of payment, because Purdue was going out of
22 existence. And I don't understand the rationale of that.

23 I know you're not pushing that objection today,
24 but I do just want to state that the business is not going
25 out of existence, but more importantly, the assets are not

1 going out of existence, and they can be protected under a
2 plan, I think, and I think almost every plan in a major case
3 does that with an injunction. Certainly, every plan that
4 sets up a creditor trust, creditor liquidation trust,
5 creditor litigation trust, either of those things -- and
6 it's well recognized and I think that, frankly, that should
7 not be an issue at confirmation, but luckily, we don't have
8 to address it here, either.

9 MR. HUEBNER: Yeah, and Your Honor, just to note
10 the sort of potential irony, and I'm confident this will be
11 worked out, it was actually absolutely critical to the
12 United States of America that Purdue itself not emerge from
13 Chapter 11. It was absolutely a critical prong of the
14 settlement with the DOJ. It is also extremely important to
15 many of the states and many other stakeholders, for obvious
16 reasons, that Purdue is never coming out of bankruptcy --

17 THE COURT: Right.

18 MR. HUEBNER: -- and its assets are being
19 distributed, so --

20 THE COURT: I understand that, but the assets need
21 to be protected to that the people who were going to get
22 paid from them, can get paid from them, and --

23 MR. HUEBNER: No, no, I'm only agreeing. I'm just
24 saying, having one part of the DOJ, basically issuing
25 something that is there because it was demanded by the

1 states themselves, we'll figure it out by confirmation.

2 THE COURT: There's nothing --

3 MR. HUEBNER: You're exactly right.

4 THE COURT: What I'm saying is I don't think
5 there's anything to figure out here. I think it would call
6 into question, basically, ever major Chapter 11 plan done in
7 the last, you know, 30 years, wherever there was any sort of
8 litigation trust or liquidation trust created. So, I think
9 the Court has plenty of authority to protect those assets.
10 Anyway --

11 MR. HUEBNER: Thank you, Your Honor.

12 THE COURT: And I think, probably, the U.S.
13 Trustee saw that, because the Office is not pursuing that
14 objection, but I just wanted to note that. I did consider
15 it and would've overruled it. Let's put it that way. So,
16 that deals with the U.S. Trustee's objection, and again --
17 and this may drive everyone crazy. I do have my own
18 comments on the disclosure statement and plan. I've already
19 foreshadowed those already in a couple of cases in
20 addressing the U.S. Trustee's objection, but I'll give you
21 all a second chance, just going through them very quickly at
22 the end of this hearing, if I don't do it --

23 MR. SCHWARTZBERG: Understood.

24 THE COURT: -- in response to other objections.
25 So, which one do you want to deal with next, Mr. McClammy?

1 MR. MCCLAMMY: Thank you, Your Honor. I think one
2 of the objections that also, in part, relied on the
3 Trustee's objection, which was Agenda Letter I or 1-I. It's
4 the ER Physician objections and there were supplemental
5 objections filed. These would be at Docket Number 2708,
6 2794, and 2828, and they're Agenda Items 1-I, HH, and KK.

7 THE COURT: Okay.

8 MR. MCCLAMMY: Your Honor, in these objections
9 filed on behalf of Dr. Masiowski, an independent emergency
10 room physician, essentially objected to the disclosure
11 statement and the initial objection, one of which, the
12 objections were raised, we believe, an untimely objection to
13 the claims procedures. Those procedures have since been
14 approved by the Court, as indicated in our response at
15 (indiscernible), and we believe that objection should be
16 overruled.

17 To the remaining objections, they broadly fall
18 into two categories. First, he asserts a disclosure related
19 objection regarding the hospital claims in Class 6, the
20 hospital TDPs are really just -- I think those are really
21 just guised as confirmation objections, and as was also
22 discussed by Mr. Huebner, we believe those objections should
23 be overruled.

24 In addition, Dr. Masiowski asserts objections
25 regarding the planned abatement-centric framework and the

1 substance of the hospital TDPs. I'm sorry, Your Honor, are
2 you having trouble hearing me?

3 THE COURT: No, I'm just trying to figure out
4 whether I should just hear from Dr. Masiowski's counsel to
5 see what's left here, of the objection.

6 MR. ROTHSTEIN: I'm available, Your Honor.

7 THE COURT: Okay.

8 MR. ROTHSTEIN: This is Paul Rothstein.

9 THE COURT: All right. So, look, the Debtors have
10 been quite candid. They have been filing the backup for the
11 treatment sections for different classes in this case since
12 the original disclosure statement was filed, including, in
13 this case, the so-called hospital -- well, the Class 6. So,
14 at this point, I'm just not sure what's left as far as the
15 objection to the disclosure statement.

16 MR. ROTHSTEIN: Sure, Your Honor. And just
17 preliminarily, I do want to say on behalf of Dr. Masiowski
18 that we adopt and incorporate the second supplemental
19 objection of the public school district creditors to
20 Debtors' motion to approve, and that was Document No. 2916.

21 THE COURT: Well, they've withdrawn that, so this
22 -- you can't do that. I mean, it's theirs, okay? It's just
23 --

24 MR. ROTHSTEIN: Well -- okay. Well --

25 THE COURT: And they're a different entity. I

1 don't even know what you mean what you say when you adopt
2 it. They're a school board. They're school districts.
3 Your client --

4 MR. ROTHSTEIN: Well, Your Honor --

5 THE COURT: -- is an emergency room physician.

6 MR. ROTHSTEIN: I get that, Your Honor, and what
7 they said in the content of that was detailed about how all
8 of these documents have been basically put on everybody in a
9 very short period of time, so I want to reserve the right to
10 be able to have further objections, given the fact that of
11 the burden of having to go through these pages of documents,
12 and this is a disclosure issue, Your Honor. It's not a
13 confirmation plan issue. But let me --

14 THE COURT: Mr. McClammy, when was the Class 6 TDP
15 filed? You're on mute.

16 MR. MCCLAMMY: Sorry, Your Honor. Let me just
17 check on the exact date on that, but that -- it was filed in
18 advance of the current round, my understanding.

19 MR. ROTHSTEIN: It was filed two days ago, I
20 believe.

21 THE COURT: Okay. I read it this morning.

22 MR. ROTHSTEIN: Okay. I'm just saying, Your
23 Honor, that -- I'm just putting that on the record.

24 THE COURT: This is the hearing, all right. Tell
25 me what your objection is.

1 MR. ROTHSTEIN: Fair enough. Fair enough. So, my
2 objection is, Your Honor, that the disclosure is misleading,
3 at best, because essentially, emergency room physicians,
4 there's 70,000 of them. I understand I'm only representing
5 one and as a putative class representative of a class action
6 that's been filed in the NDL, but in the Class 6, nobody,
7 especially the emergency room physician, cannot make a
8 claim, and I'm asking the Court to rewrite the Class 6
9 definition that they have to explicitly say that if you're
10 not a hospital, you cannot make a claim.

11 And the reason you can't make a claim, Your Honor,
12 is that the actual, one, the claim form itself hasn't been
13 completed, but the information necessary in the claims form
14 that's represented in the document is something that an
15 emergency room physician cannot certify to. There are
16 information requirements in the claim form that there is no
17 way the emergency room physician can certify to, because
18 that information is in the exclusive control of the
19 hospital.

20 So, an independent emergency room physician, who
21 doesn't work for the hospital, has absolutely no possibility
22 of making a valid claim, and that needs to be explicit. So,
23 if they're going to say that you're in group six, then tell
24 everybody, well, if you're an emergency room physician or
25 other than a hospital, you can't make a claim. Now, we've

1 already paid a substantial contribution to the amended plan,
2 because now, they're saying that it's not only hospitals but
3 it's holders of hospital claim. So, that's one issue.

4 The second issue, Your Honor, that's most
5 significant from our standpoint, is that a hospital does not
6 have had to have filed a claim to be eligible for an
7 allocation. And if that's the case, although it's ambiguous
8 in the disclosure, that needs to be explicit, because
9 emergency room physicians should be afforded -- that's not
10 me, Your Honor -- should be afforded the same right and the
11 same privilege. What do I mean by that? Emergency room
12 physicians should not have had to file --

13 THE COURT: Can we just -- let me ask Mr.
14 McClammy. Is there any definitional distinction between
15 hospitals, health care providers, and emergency room
16 physicians, or is it the Debtors' intention that emergency
17 room physicians be included in the reference to hospitals
18 and health care providers?

19 MR. MCCLAMMY: We believe, Your Honor, that it's
20 clear in the documents, including the disclosure statement,
21 that the physicians, including the independent emergency
22 room physicians, would qualify to participate in this this
23 class and are not excluded from potentially recovering.

24 THE COURT: Okay. So, it's not a definitional
25 issue, that Mr. Rothstein is talking about. If it is, he's

1 just closing his eyes to the document. What he's talking
2 about, although, this did not come through in the objection,
3 but I understand his point now, is that as a practical
4 matter, the information needed to assert a right to the
5 trust can't be provided by an emergency room physician, I
6 guess without the cooperation of the hospital for which he
7 or she works.

8 I don't know if that's ever been raised with you
9 before. Has it been discussed?

10 MR. MCCLAMMY: We did have a brief call with
11 counsel for the emergency room physician. Some of these
12 issues were raised. We turned him back to the -- we believe
13 that the certifications that are requested are things that
14 the doctors can, in fact, provide, so we haven't seen
15 anything that would be --

16 THE COURT: What is it --

17 MR. MCCLAMMY: -- issues that they couldn't meet.

18 THE COURT: What is it that the physicians could
19 not provide, Mr. Rothstein?

20 MR. ROTHSTEIN: The issue that they have laid out
21 is like the hospital in terms of what the expenditures are
22 in the hospital, what's going on in the hospital itself, is
23 what the certification seems to require, and that's not
24 something an independent emergency room physician, who
25 doesn't work for the hospital, Your Honor -- these are

1 independent contractors. They don't have anything related
2 to the hospital other than that's where they do their work.
3 And they're on the front line of all of this.

4 THE COURT: Does the form actually just say the
5 hospital or does it just say the healthcare provider?

6 MR. ROTHSTEIN: Well, the original form --

7 THE COURT: I'm talking about the form now.

8 MR. ROTHSTEIN: The form now says holders of
9 hospital claims. That's the language that they've amended.
10 And -- but, Your Honor, there is no form. They reference a
11 form, but there's no form in the document itself.

12 THE COURT: Let's just agree on one thing. A --
13 two things. One, the emergency room physicians are in the
14 class; and two, if the form that is proposed to be used
15 makes it impossible for them to assert a claim, then you'll
16 have a valid objection to the plan.

17 MR. ROTHSTEIN: My -- I understand, and my third
18 point is, the point that I haven't said yet, the allocation
19 information in terms of how the monies in the trust are
20 going to be allocated, is subject to a confidential,
21 proprietary algorithm that is not being disclosed and is not
22 being disclosed in the plan, either. So, this proprietary
23 algorithm is something that we believe any holder of the
24 hospital claim signing an appropriate protective order
25 should have access to because that is determining how all of

1 the funds in this particular trust are going to be
2 allocated.

3 THE COURT: Okay.

4 MR. ROTHSTEIN: And that's a disclosure issue.

5 THE COURT: Well, it's not really a disclosure
6 issue. It's an issue as far as preparing for the
7 confirmation hearing. I'm assuming that, subject to a
8 confidentiality agreement, that is something that, if
9 someone wants to review it in preparing for the confirmation
10 hearing, they can, right, Mr. McClammy?

11 MR. MCCLAMMY: Yes, Your Honor, and this is a
12 model that is employed by the hospital TDPs. It's based on
13 things like diagnostic codes that associated with certain
14 forms of treatment and things along those lines.

15 THE COURT: Okay.

16 MR. MCCLAMMY: I don't think that there would be
17 any problem with that.

18 THE COURT: Well, I mean, again, if that model, by
19 just its very operation, excludes everyone other than a
20 hospital, then the point that the Debtors have made, which
21 is that this category includes healthcare providers as well,
22 isn't going to work. So, just a head's up. I'm assuming it
23 appropriately addresses the whole class, and to do the due
24 diligence on that, if someone wants to pursue it, they
25 should be able to have access to it, signing the appropriate

1 confidentiality agreement, since it is, apparently
2 proprietary, so that they can prepare for the confirmation
3 hearing.

4 It's not something that would be disclosed in the
5 disclosure statement.

6 MR. ROTHSTEIN: Well, Your Honor, and just to
7 address this other point about, I want you to understand,
8 they treat -- they recognize this and document -- I'm going
9 back to the issue of whether it's a hospital or an emergency
10 room physician who can certify for allocation purposes, and
11 it's Document No. 2910, Footnote 12. It's important, also,
12 from us to -- I mean, for me to state this, is that the
13 doctor has to certify.

14 The emergency room doctor and all healthcare
15 providers have to certify that they met the standard of
16 care, that they've acted reasonably and so forth and so on,
17 to sign the certification. And what I'm saying is, the
18 information for them to complete that form where they have
19 acted within the standard of care and conducted themselves
20 within the standard of care, that information, much of it,
21 is within the exclusive control of the hospital.

22 I understand what the Court is saying, that --

23 THE COURT: I don't understand what you're saying.
24 Why shouldn't any doctor be able to certify to that?

25 MR. ROTHSTEIN: Because they don't have access to

1 the information that's being required to get the allocation.
2 This is, for purposes of being able to complete a form, that
3 you're going to be able to submit to be entitled to a
4 certain allocation, and an emergency room physician cannot
5 sign off on that if they're not going to have access to all
6 of the information within the purview of the hospital.
7 That's the point, as it's now stated. That's all I'm
8 saying. I mean, we need to see a form, the claim form, and
9 be able to evaluate whether --

10 THE COURT: Well, I guess the one thing you stated
11 is they have to certify that they've met the standard of
12 care?

13 MR. ROTHSTEIN: I don't have a problem with that.
14 That's fine.

15 THE COURT: Okay.

16 MR. ROTHSTEIN: I'm just saying they can't do that
17 in the context of this claim form because they're not going
18 to have access to the information that the hospital --

19 THE COURT: They can't do what? I'm sorry. They
20 can't do what? They can't certify they met the standard of
21 care?

22 MR. ROTHSTEIN: If they're not being -- if they're
23 not having the information in terms of what the particular
24 individual -- what the program is allocating. Let's say
25 that the program is allocating X number of dollars to be

1 able to treat the opioid disorder and that information about
2 that is exclusively within the control of the hospital and
3 not accessible to the emergency room physician. That
4 information has to be made available to the emergency room
5 physician in order to be able to sign that certification.
6 That's one part of the --

7 THE COURT: All right.

8 MR. ROTHSTEIN: -- certification.

9 THE COURT: I understand what you're saying, now.
10 This is looking forward, not looking backward. And looking
11 forward --

12 MR. ROTHSTEIN: Correct.

13 THE COURT: All right. Again, don't -- it's a
14 logical point, but it would seem to me that, again, if the
15 trust is going to have categories that the class fits into,
16 they have to make those categories known to people as part
17 of -- so they can fill out a claim form. I don't have any
18 problem with that. I don't think it's the disclosure
19 statement issue, it just -- it is a confirmation issue.

20 MR. ROTHSTEIN: Yeah, I mean, in the context of
21 the -- if they ever -- I guess what I would ask the Court to
22 require is that the claim form that's going to be available
23 to other hospital potential claimants be made available
24 within 30 days of the day of this hearing whether it be an
25 outpatient clinic form, whether it be for emergency room

1 physicians, and we should have a right to be able to see the
2 type of document that's going to be required to be able to
3 make an allocation possible.

4 THE COURT: I think that's all part of the plan
5 supplement in confirmation. I don't see any reason to go
6 anything different than that. So, I'll overrule that
7 objection.

8 MR. ROTHSTEIN: That's all we have, Your Honor.

9 THE COURT: Okay. But again, Mr. McClammy, I
10 mean, and for whoever is preparing these forms, which is a
11 step more detailed than the trust distribution procedures,
12 they need to focus on actually the mechanics to that, in
13 fact, people in the class can make the claim. Common sense.

14 MR. MCCLAMMY: Absolutely, Your Honor.
15 Understood.

16 THE COURT: Okay. All right, so who -- which
17 objection would you like to deal with next?

18 MR. MCCLAMMY: Your Honor --

19 THE COURT: I don't know who's having the vacuum
20 cleaner, but they should put themselves on mute. Okay, go
21 ahead, Mr. McClammy.

22 MR. MCCLAMMY: I believe next on the list would be
23 the Ad Hoc Committee on Accountability at BB, Docket No.
24 2791.

25 THE COURT: Okay.

1 MR. MCCLAMMY: And, shall I start, Your Honor, or
2 --

3 THE COURT: No, why don't I hear -- I mean, I've
4 read the objection. I've read your reply. I don't know
5 whether there's anything more -- well, I mean, I -- what is
6 this group pursuing at this point? Are you pursuing all of
7 the objection?

8 MR. QUINN: Your Honor, it's Michael Quinn from
9 Eisenberg & Baum for the Ad Hoc Committee. I can just focus
10 on one objection and move on. I know you have -- we have a
11 long day ahead of us.

12 THE COURT: Okay.

13 MR. QUINN: If that's okay. I just want to
14 identify one fact that the Debtors should disclose today.
15 In the Personal Injury Proof of Claim Form, Question 13 asks
16 each claimant to check the box indicating he was prescribed
17 a Purdue opioid. There were three boxes: yes, no, and
18 unknown. We see from this most recent plan and a few plans
19 before this, and the disclosure statements, that the
20 question -- the answer to Question 13 is very important.
21 Victims who don't have a Purdue description are now, what
22 we've learned, are excluded from the trust distribution
23 plan.

24 The way I see it, their only changes for recovery
25 will be to file a lawsuit against the trust. I also

1 understand there are about a 130,000 personal injury claims.
2 I'm just asking that Purdue disclose how many of those
3 individuals checked yes, how many checked no, and how many
4 checked unknown. I would imagine this breakdown is fairly
5 easy for Purdue to produce and to put into the disclosure
6 statement. They could probably run a easy search, whether
7 it's Prime Clerk or Davis Polk, maybe even before this
8 entire hearing is over.

9 If, for example, if 50,000 additional people
10 checked no and they have to file a lawsuit against the
11 trust, I think this information is material fact that every
12 creditor should know.

13 THE COURT: Well, if you, yourself, know it, I
14 mean I'm not -- mean you. If a claimant knows it because
15 they filled out the box, they're the ones that are voting.
16 Why do other people need to know it?

17 MR. QUINN: Well, I think it's a percentage issue,
18 Your Honor. Let's say two-thirds of the people who filed
19 claims checked No, one-third checked yes. I think that
20 would be very interesting piece of information for all
21 personal injury victims to understand when they go to vote
22 on this plan.

23 THE COURT: Why?

24 MR. QUINN: Well, because it might seem like this
25 plan was crafted in such a way to exclude a large amount of

1 individuals who thought they may have a potential claim
2 against Purdue.

3 THE COURT: But each one of them know -- each one
4 that checks no would know that already.

5 MR. QUINN: Well, they would've just learned it
6 very recently, Your Honor. When they filed these --

7 THE COURT: They'll get the disclosure statement.
8 They'll have more than the statutory notice of it, along
9 with the discussion about their options and causation and
10 all of that.

11 MR. QUINN: So, if six people check yes out of
12 130,000 people, that wouldn't change the people's
13 understanding of whether this plan was fair or not?

14 THE COURT: It's as to their own claim, and they
15 would have that view themselves.

16 MR. QUINN: So, this is -- people can't use
17 information based on the totality of circumstances of this
18 plan, whether it's a fair plan, whether they want to engage
19 in it, whether they want to reject it. You're just saying
20 it's up to each individual. Everybody's walking alone here.

21 THE COURT: Yes. I mean, that's generally what
22 happens when people vote. They make a decision on what
23 they're voting on. I mean, I don't -- I guess --

24 MR. QUINN: Your Honor --

25 THE COURT: -- thing would be a poll. You know,

1 just because there's a pre-election poll that says one
2 candidate is ahead by 60 percent or one candidate is ahead
3 by, in your analogy, 99 percent, shouldn't really change how
4 someone votes. It's their vote, and the information --

5 MR. QUINN: Well, your --

6 THE COURT: -- regarding causation and potential
7 recoveries and the risks you run, that's all in the
8 disclosure statement. So, I'm going to overrule that
9 objection. It doesn't -- it's not worth it. It's not -- it
10 doesn't go to the holder, the claimant. It's a nice press
11 release, and that's not what disclosure statements are
12 about.

13 MR. QUINN: Maybe you could explain further, Your
14 Honor?

15 THE COURT: No, I don't need to. I think you know
16 perfectly well what I'm saying. It doesn't go to the
17 holder. Just leave it at that.

18 MR. MCCLAMMY: Okay, Your Honor. I think this
19 draft -- the next objection that I will be handling would be
20 the objection filed on behalf of Mr. Peter Jackson,
21 represented by Professor Jonathan Woodson.

22 THE COURT: Okay. And I do want --

23 MR. MCCLAMMY: That is II --

24 THE COURT: can I interrupt you, Mr. McClammy?
25 I'm sorry. Before we conclude with the -- with this Ad Hoc

1 Committee, I obviously read the objection, the Debtors'
2 reply. The objection is phrased in terms of a number of
3 questions, which is an interesting way to object to
4 information, and having read it carefully, I just -- again,
5 I accept the opening analysis of what we're here for, that
6 was given by Mr. Huebner, which is, adequacy of information
7 to that people can vote on a plan, and I believe the
8 disclosure statement sufficiently addresses, not the
9 questions, because the questions are really off point.

10 I think that they -- on the other hand, the
11 Debtors have addressed sufficiently the aspects of the plan
12 and the formation of it that would enable someone to vote on
13 the plan and make a choice as to whether they wanted to vote
14 yes or no. So, you can go ahead, Mr. McClammy.

15 MR. MCCLAMMY: Thank you, Your Honor. I was
16 stating that the next objection that I have on my place
17 would be that filed by -- on behalf of Mr. Jackson by his
18 counsel Professor Lipson that appears on the agenda at II,
19 Docket No, 2819 and OO, Docket 2811. One piece of
20 information I did want to provide, Your Honor, as part of
21 some of the disclosure statement objections that were raised
22 on behalf of Mr. Jackson. Some of them were directed to the
23 fact that the shareholder releases and the definition of the
24 shareholder release parties were not included. Did want to
25 repeat the information that the Court is aware of that we

1 have filed annexes to the shareholder settlement providing
2 that list. I believe that's Exhibit H to the disclosure
3 statement that was filed earlier today. In addition, with
4 respect to information on the collateral and just with the
5 covenant and remedies, there were terms sheets that were
6 also filed on the docket today that I believe addressed that
7 part of the objection.

8 THE COURT: And can you just remind me, and I
9 haven't been up, you know, for the last 36 hours that some
10 of you have, but can you remind me, has the list of the
11 excluded parties also been filed today or was it to be filed
12 before the plan supplement deadline? Maybe that's --

13 MR. MCCLAMMY: I believe --

14 THE COURT: -- answer, I don't know.

15 MR. MCCLAMMY: -- that -- yes, I believe it was
16 also confirmed by Ms. Libby, but I believe that information
17 was actually filed today.

18 THE COURT: Okay.

19 MR. MCCLAMMY: -- setting out the list of the
20 Sackler release parties.

21 THE COURT: She's furrowing her brow. I'm not
22 sure that's the case.

23 MS. LIBBY: I think that excluded parties is still
24 to come, Your Honor.

25 THE COURT: That'll be --

1 MS. LIBBY: -- list.

2 THE COURT: That'll be by the plan supplement
3 deadline?

4 MS. LIBBY: Yes, unless somebody else on the Davis
5 Polk team --

6 THE COURT: Okay.

7 MS. LIBBY: -- corrects me (indiscernible).

8 THE COURT: All right, thank you.

9 MR. HUEBNER: I'd like to wish anyone on the Davis
10 Polk team the very best of luck in correcting Ms. Libby.

11 THE COURT: Okay. All right. So, I guess -- Mr.
12 Lipson, I'm going to ask you the same question I've asked
13 others. At this point, what in the disclosure statement
14 objection is still being pursued?

15 MR. LIPSON: Thank you, Your Honor. This is
16 Jonathan Lipson for Peter Jackson. Can you hear and see me
17 okay?

18 THE COURT: Yeah.

19 MR. LIPSON: Great, thank you. Thank you, Your
20 Honor. I want to keep this quick. You've got a lot on your
21 agenda. I think the Debtors have made significant progress
22 between the time that we filed our two objections and today.
23 Mr. Huebner, I think, said well, Mr. Jackson's objections
24 are all confirmation objections, and obviously, in part,
25 they are. That's correct. We broke them into two basic

1 groups, one, distributed objections, the other procedural.

2 The distributed objection was the best interests
3 of creditors objection. Mr. Huebner said, well, courts
4 almost never deny approval of a disclosure statement on
5 grounds that the plan is facially unconfirmable, but of
6 course, sometimes, they do. The Debtors, I think, have
7 addressed the facial confirmability question with respect to
8 best interests, but we do have a couple of concerns about
9 disclosures that haven't been made in the disclosure
10 statement that, I think, should be in order to satisfy the
11 adequate information standard for the best interests issue.

12 Number two are the procedural objections. We said
13 well, you know, the Debtors want to force all personal
14 injury creditors into an arbitration proceeding, and we
15 don't think that's permissible in a bankruptcy --

16 THE COURT: I don't understand that objection. I
17 really don't. I mean, they have the ability to opt out.

18 MR. LIPSON: No, no. Correct, Your Honor. They
19 did. So, after we filed that objection, they then added the
20 consent procedures and we object to those because we think
21 that they don't provide any meaningful choice, and the
22 reason we think they don't provide any meaningful choice is,
23 number one, they, in effect, impose a second bar date on
24 creditors.

25 If a personal injury creditor wants to get paid,

1 they have to have filed their claim by the bar date, but
2 then in addition, sometime in the future, after
3 confirmation, within, I think, 150 days of the effective
4 date, they have to execute a second form providing a variety
5 of some information that, I think, the Debtors probably
6 legitimately need, but in addition, they are consenting
7 either to use the arbitration proceeding or they're agreeing
8 to go to the District Court under constrained condition.

9 There are three major constraints that would be
10 imposed on personal injury claimants, even if they elect to
11 go to the District Court. Number one, they cannot recover
12 or assert claims against anyone other than the trust, and
13 so, for example, they can't assert claims against non-
14 Debtors who might otherwise be liable. They can't,
15 apparently, assert claims -- obviously, they can't assert
16 claims against the Debtors any longer, but the point is that
17 like many personal injury claimants believe that they have
18 claims against non-Debtors, they won't, I don't think, be
19 able to take discovery of anyone other than whoever the
20 Debtors agree to provide to the trust.

21 So very limited ability to assert claims against
22 anybody that the personal injury claimant might think they
23 have claims against. I realize the non-Debtor releases are
24 not on today, but we didn't object to those on disclosure
25 grounds, but we do think that the District Court should not

1 be so constrained in --

2 THE COURT: Why?

3 MR. LIPSON: -- in the sort of --

4 THE COURT: It's the same point. Every court
5 would be constrained if I approved the plan. Every single
6 court would not be able to go against the -- I'm not saying
7 I'm going to confirm it or not going to confirm it, but
8 every single court would be -- would have that limitation,
9 because of the plan.

10 MR. LIPSON: Well, Your Honor, I think 1129(a)(1)
11 says that the plan cannot be approved unless it complies,
12 and we know that under 158 -- 157 --

13 THE COURT: That's --

14 MR. LIPSON: -- (2)(B) --

15 THE COURT: You're talking about the payment of
16 the claim, not the litigation of the claim, and as far as
17 the payment is concerned, that would be governed by the
18 plan, which is channeled to the trust.

19 MR. LIPSON: I understand that, Your Honor.
20 That's correct. I'm not --

21 THE COURT: Well, you just said that the District
22 Court would somehow -- it would be improper to say the
23 District Court would say that you could go to some other
24 source for payment. But the plan would --

25 MR. LIPSON: No, no --

1 THE COURT: -- govern that. That's the whole
2 point of an injunction.

3 MR. LIPSON: I'm sorry, Your Honor, can I finish?
4 I said, for discovery, not for payment. So, for purposes of
5 discovery --

6 THE COURT: Well, all right. We'll talk about
7 that, but I think you went way beyond discovery. You were
8 talking about not having a claim against someone else.

9 MR. LIPSON: Well, it is, for sure, Your Honor,
10 true, and that -- this is the second point, that the trust
11 distribution procedures lock in the channeling injunction,
12 so that by the time we get to --

13 THE COURT: Because it's premised on --

14 MR. LIPSON: -- confirmation --

15 THE COURT: -- confirmation and the effective date
16 --

17 MR. LIPSON: Right, but by the time --

18 THE COURT: -- of the plan.

19 MR. LIPSON: Right, and by the time, we all know,
20 Your Honor, by the time we get to confirmation, everyone
21 will say, well, it's too late. We can't change it now.
22 We've already solicited all these votes and we have these
23 votes and what have you.

24 THE COURT: Why would -- but why would -- I --

25 MR. LIPSON: Our objection --

1 THE COURT: -- makes, literally, no sense. Let's
2 go back to discovery -- the discovery point. I don't -- is
3 there a limitation on discovery from third parties if you
4 want to opt out, Mr. McClammy, as long as you're not
5 asserting a claim against them?

6 MR. MCCLAMMY: Not -- we will confirm that, Your
7 Honor, but no, not that I'm aware of.

8 THE COURT: Okay.

9 MR. MCCLAMMY: I think that there is -- there is a
10 process that is meant to be an expedited process.

11 THE COURT: Now, we're talking if they opt out.
12 We're talking about if they opt out.

13 MR. MCCLAMMY: Right, but -- right. And if they
14 go into litigation, that's correct, Your Honor.

15 THE COURT: Okay. All right. Is there something
16 that says otherwise, Mr. Lipson? I mean --

17 MR. LIPSON: My understanding is that the Debtors
18 have said they're going to provide some information to the
19 trust and the trust will be the only named defendant, and so
20 I don't know how else anybody else would be able to provide
21 any information if they aren't named or can't be brought
22 into the litigation. But if the Debtors are saying that
23 discovery will remaining according the ordinary rules of
24 discovery and not otherwise constrained, I think that's
25 fine.

1 THE COURT: For opt-outs. Okay?

2 MR. MCCLAMMY: I think, just to clarify, Your
3 Honor, to the extent that they're talking about having a
4 claim against a non-Debtor, that is completely --

5 THE COURT: No, no, no. This is a --

6 MR. MCCLAMMY: -- not Purdue related --

7 THE COURT: -- only a claim -- this is only a
8 claim against the trust.

9 MR. MCCLAMMY: Right, so in a claim against the
10 trust --

11 THE COURT: Right.

12 MR. MCCLAMMY: -- the thought would be that the
13 massive amounts of discovery that have been conducted (sound
14 drops) already would be made available --

15 THE COURT: Sure, that would streamline it.

16 MR. MCCLAMMY: -- contemplated.

17 THE COURT: Right. That would streamline it, and
18 I'm assuming any district judge would say, look there first,
19 and then tell me what else you need, you know, but -- right?

20 MR. LIPSON: Right, but so --

21 THE COURT: Okay.

22 MR. LIPSON: The basic point with respect to the
23 procedures, Your Honor, is that I think the Debtors
24 recognize that in their initial form, those --

25 THE COURT: I don't care about what happened. I'm

1 caring about what's open today, okay.

2 MR. LIPSON: Right, so --

3 THE COURT: You raised important issues in your
4 objection. I want to know what we're dealing with today as
5 opposed to what happened previously.

6 MR. LIPSON: Well, Your Honor, their whole process
7 for dealing with personal injury claims, now, I think, is
8 predicated on the idea that creditors will have consented to
9 one or the other of these two paths and our basic point is
10 they offer a Hobson's choice. There is no meaningful choice
11 between them.

12 THE COURT: I don't understand.

13 MR. LIPSON: Mr. Huebner --

14 THE COURT: There's a very clear choice. You opt
15 in or you opt out, and the disclosure statement makes
16 reasonably clear at least what the Debtors believe the risks
17 are of either one, either choice. What other choice is
18 there?

19 MR. LIPSON: Right, and so --

20 THE COURT: What other choice would there be?

21 MR. LIPSON: Well, so, Mr. Huebner mentioned the
22 PG&E disclosure statement, and I should take one step back.
23 I know Mr. Huebner is not happy that I'm involved in this
24 case at this point, but his colleagues have been incredibly
25 helpful in working this stuff through, and they've made

1 significant changes that we appreciate. So, Mr. Huebner
2 mentions the PG&E case, so I sent the PG&E disclosure
3 statement to Davis Polk. Maybe they haven't had a chance to
4 look at it, but that case uses an opt in, not an opt out.
5 If you want to be in the arbitral proceeding, you opt into
6 the arbitral proceeding. You don't have to opt out of it.

7 And more importantly, issues involving the
8 liquidation and estimation, determination of personal injury
9 claims was sent up to the District Court at the outset, and
10 so we don't have an arbitrator making that decision and we
11 are not forcing people to make a choice that is really not,
12 I don't think, a choice at all.

13 THE COURT: All right. A choice is a choice,
14 whether you opt in or you opt out. You have that choice.
15 Point one. Point two is --

16 MR. LIPSON: If they don't --

17 THE COURT: -- I don't understand why you say
18 there's not a choice. There is a choice.

19 MR. LIPSON: Because if they don't make one of
20 those two choices, they don't get paid at all, even though
21 they've already filed a proof of claim timely and there's
22 been no objection their claims, Your Honor.

23 THE COURT: I don't -- let --

24 MR. LIPSON: The Debtors --

25 THE COURT: -- different point. When you're

1 saying that they don't make the choice at all, I mean --

2 MR. LIPSON: Right.

3 THE COURT: The purpose --

4 MR. LIPSON: Can I finish again, Your Honor?

5 THE COURT: Yeah.

6 MR. LIPSON: I'm saying --

7 THE COURT: There's 150 days for someone to choose
8 which system they want to go with, right? Now, you're
9 saying that there should be an assumption that if they don't
10 make the choice, they're in one or the other? Is that what
11 you're saying?

12 MR. LIPSON: No, Your Honor. What I'm saying is
13 that the way the Debtors have structured this, if you want
14 to get paid at all, even if you've already filed a proof of
15 claim timely, you still have to file this supplemental,
16 second proof of claim and by doing that, you are deemed to
17 make one of these two choices, and I don't think, in the
18 end, they're materially different choices, and I think
19 they're designed, obviously, to deter people from choosing
20 going to the District Court, but there's no point here.

21 THE COURT: Are you -- I'm going to deal with that
22 point one more time, and then I'm going to go back to the
23 other point you've raised. By saying that there really is
24 no choice, I don't understand what alternative you even
25 think there could be between either a opt out where you

1 liquidate your claim in the court system and the benefits
2 and risks of that are described in disclosure statement, or
3 you proceed with a claims resolution facility system through
4 the trust. Now, one could say that you could have tweaks on
5 the latter, but that's up to the Debtors to decide.

6 I don't think there's a third choice. What is the
7 third choice?

8 MR. LIPSON: The third choice is --

9 THE COURT: Have a judge in Canada decide it,
10 that, to have -- I don't understand what the third choice
11 is. Those are the two choices, right? There's no other
12 choice. Is there any other choice?

13 MR. LIPSON: May I answer the question, Your
14 Honor?

15 THE COURT: Yes.

16 MR. LIPSON: So, the Bankruptcy Code, Section
17 502(a) says that timely filed proofs of claim are deemed
18 allowed unless objected.

19 THE COURT: No --

20 MR. LIPSON: We know the Debtors --

21 THE COURT: -- different point. I'm just dealing
22 with the point that you've now made three times, which is,
23 people really don't have a choice. And I'm assuming,
24 because you haven't given me an answer to what I've said,
25 that point is overruled. Now, I want to go to your other

1 point. Your other point, which you -- instead of answering
2 my question, you just made, is that the form that people are
3 supposed to fill out and send in to the trust within 150
4 days of the effective date provides -- you're supposed to
5 provide information on it and make an election as to whether
6 you opt in or opt out of the procedures.

7 Are you saying that if you don't file that form at
8 all timely, your claim is disallowed? Is that what you're
9 saying?

10 MR. LIPSON: That's my understanding from the
11 Debtors, Your Honor.

12 THE COURT: All right. Is that right, Mr.
13 McClammy?

14 MR. MCCLAMMY: The -- yes. The way that it is --
15 they way it is currently drafted, people have to make a
16 choice or they're -- for their recovery options.

17 THE COURT: Well, I understand they have to make a
18 choice, and I can understand that if they don't make a
19 choice, they will be deemed to be in one or the other? But
20 no, no, I'm just -- hypothetically, not in real life. If
21 they don't make a choice, they'll be deemed to be in one or
22 the other, and it would be up to the Debtors to decide which
23 one they'd be in, in the plan as well as the people that
24 negotiated this with them. But it does seem to me that if
25 they don't file the document at all, that the disallowance

1 of their claim is draconian.

2 That point, which, frankly, I don't think was made
3 in either of the two objections, is a legitimate one, I
4 think, and probably is something that should be described in
5 the disclosure statement.

6 MR. MCCLAMMY: Okay. We will go back to confirm
7 on the drafting on that, Your Honor.

8 THE COURT: Right. I mean, I think the part that
9 needs to be described in the disclosure statement is, first,
10 it's clear to me that for the trust to function efficiently
11 and to distribute as much money to people as opposed to
12 people's lawyers, it's worthwhile to have a procedure where
13 people opt in or opt out, and the corollary to that is they
14 should probably have a deadline to do that, and if they
15 don't do one or the others, the Debtors and the people that
16 negotiated this on the PI side should say, you will
17 therefore be -- if you haven't made this choice, you will be
18 assumed to be in X, because that's a consequence of your not
19 making the choice, either the opt out or opt in.

20 It may be that as part of the procedures -- not
21 the opt in or opt out, but as far as the procedures are
22 concerned, you could require information to be provided by a
23 certain deadline. I've done that and my colleagues have
24 done that and judges all over the country have done that in
25 many, many, many cases during the case. Any supermarket

1 case. Hundreds of people have personal injury claims
2 because they slip and fall, literally, on bananas at
3 supermarkets.

4 It's common practice and well accepted, including
5 by tort claimants, that you give people the option to
6 liquidate their personal injury claims through a procedure
7 like this that does set out deadlines for when you provide
8 information to the people that will be making those
9 decisions. But you opt into that. It really shouldn't be
10 part of the opt in or opt out process. It should be after
11 you are -- you've elected to or deemed to have elected to
12 opt into the non-judicial process.

13 MR. VONNEGUT: Excuse me, Your Honor. This is Eli
14 Vonnegut from Davis Polk. Can you hear me?

15 THE COURT: Yes.

16 MR. VONNEGUT: I just have a few clarifying,
17 hopefully helpful points. I think the deadline that we're
18 talking about principally is what you just described, Your
19 Honor. It's a deadline to submit information to the
20 personal injury claims trust in order to allow that trust to
21 assess the relevant claim for purposes of filtering it
22 through the trust distribution procedures.

23 THE COURT: Okay.

24 MR. VONNEGUT: So, we will revisit the disclosure
25 on that point to make sure that it's clear and touch base

1 with the personal injury group about how those deadlines
2 operate.

3 THE COURT: It shouldn't be --

4 MR. VONNEGUT: One other point that I want --

5 THE COURT: Can I just -- it should not, however,
6 be --

7 MR. VONNEGUT: Of course.

8 THE COURT: -- a deadline, a bar, if you fail to
9 do it, of you opt in to the court system.

10 MR. VONNEGUT: Yes, sir, understood, and we will
11 revisit that point with the personal injury group.

12 THE COURT: Okay.

13 MR. VONNEGUT: The last point, where I just wanted
14 to make sure that there was no misunderstanding, because I
15 think there was a little confusion, is discovery. For
16 personal injury claimants that opt out of the trust
17 distribution procedures, they are not barred from seeking
18 discovery. What there is in opt out procedures in something
19 akin to the procedure that we've established for plan
20 confirmation in this case.

21 THE COURT: Right.

22 MR. VONNEGUT: I.e., there is a large repository
23 of documents --

24 THE COURT: Right.

25 MR. VONNEGUT: -- established --

1 THE COURT: I think that was clear. I think that
2 was clear --

3 MR. VONNEGUT: Okay.

4 THE COURT: -- in the disclosure statement. That
5 was for the benefit of those who opt out. They --

6 MR. VONNEGUT: That's correct, Your Honor.

7 THE COURT: They don't have to reinvent the wheel.

8 MR. VONNEGUT: That's right.

9 THE COURT: Okay.

10 MR. VONNEGUT: Thank you.

11 MR. LIPSON: Your Honor --

12 MR. HUEBNER: Your Honor, one -- a couple of quick
13 things from this end, and again, I sort of apologize, for
14 the multiple voices. Obviously, we're dancing at
15 extraordinary speed here. So first, just for the avoidance
16 of doubt, we welcome all constructive engagement and
17 anything that improves the plan and makes it more fair for
18 stakeholders is fabulous for us and I hope that all
19 claimants understand that, despite the sort of press of time
20 and circumstance. I hope that we are always courteous to
21 everybody who joins the case.

22 Number to is, just so the record is clear, the
23 Debtors and Davis Polk in particular have been advocating
24 for an opt out for months, long before, frankly, Professor
25 Lipson or others joined this case, and I really don't want

1 anybody to sort of take credit and say, because of my
2 objection, this happened. There are a lot of cooks in this
3 case and a lot of people are thoughtful and caring and want
4 the best for everybody.

5 With respect to the third issue, this is an intra-
6 PI issue, to be clear. It's not that the Debtors have
7 views, right. These TDPs were drafted largely by the PIs
8 who represent hundreds of thousands of claimants, and while
9 we're certainly happy to take the Court's direction, I do
10 want to be clear that the original mechanical gave people
11 150 days. I mean, that's true.

12 You file a claim, it's prima facie valid under
13 501, but then any objection throws the burden back to you
14 and it could be deemed to be the equivalent analytically of
15 a pro forma objection in response to which you now need to
16 file more information, and 150 days is longer than pretty
17 much any bar date in any case, so --

18 THE COURT: Well --

19 MR. HUEBNER: We will, of course, take the Court's
20 direction and that's done. It's cooked. I'm not arguing
21 that. I just don't want anybody to have the view that
22 either it was the Debtors or that it was me and you stirred
23 it, that 150 days, which almost half a year, to fill out a
24 form -- the point is that the PIs want to get the money out
25 to the PIs and not have it sit for years while each claim is

1 resolved individually --

2 THE COURT: I --

3 MR. HUEBNER: -- and have long deadlines.

4 THE COURT: Right, I understand that, Mr. Huebner,
5 and I think that I don't have any problem with a deadline to
6 opt in or opt out, or a presumption which -- but it needs to
7 be made clear to people, in the disclosure statement, that
8 if you do neither, you will be deemed to have subjected
9 yourself to the procedures, which means that you have to
10 provide the information by the deadline.

11 But again, it just isn't -- if you're going to
12 have an opt out, you don't want to limit the information --

13 MR. HUEBNER: Yep.

14 THE COURT: -- that --

15 MR. HUEBNER: Understood. And so, I think we've
16 improved the TDP, and we've improved the document, and
17 that's all a good thing.

18 THE COURT: Okay.

19 MR. HUEBNER: But, obviously, there are sort of
20 very pro-PI things that animated the approach and that we've
21 tweaked --

22 THE COURT: That's fine.

23 MR. HUEBNER: -- even better, and that's a good
24 thing.

25 THE COURT: Okay.

1 MR. HUEBNER: We appreciate --

2 THE COURT: And I think this is a disclosure
3 issue, because people need to be know -- need to know the
4 consequences of not doing either, which effectively means --

5 MR. HUEBNER: And by the way, just --

6 THE COURT: -- you have to provide that
7 information within 150 days, which is fine. I think that's
8 --

9 MR. HUEBNER: Correct. And Your Honor, I don't
10 mean to put anybody on the spot, but the PI lawyers who
11 largely drafted the TDPs and do this all the time, are
12 listening to this hearing. I'm assuming, since the Debtors
13 are nodding and agreeing and, you know, and tweaking and the
14 like, that if for some reason we are saying something or
15 agreeing to do something that they find anathema, that they
16 actually need to say it now as opposed to after the hearing,
17 saying we listened to you agree to make the 150 an opt
18 in/opt out choice, but not a claim disallowance choice,
19 absolutely not. We're now withdrawing our support for the
20 plan.

21 And I apologize to Mr. Shore and Ms. Steege and
22 others, but we're making sausage here. I don't know a
23 better way to do it, and there are lots of parties who are
24 staying silent as we are agreeing to tweaks that the Court
25 is all but demanding/suggesting, and I do feel as a matter

1 of process, that anyone disagrees, it's a little bit speak
2 nor or forever hold your peace, and again, I do -- I don't
3 mean to put anybody on the spot, but I just don't know a
4 better way to do it.

5 THE COURT: Mr. Shore, you're on mute, I think.

6 MR. SHORE: I'm sorry, Your Honor. Chris Shore
7 from White & Case. I had some comments to make later about
8 bigger issues. On the scale of issues that are likely to
9 cause a plan failure or not, the issues that are being
10 discussed right now are not, and I will speak up if and when
11 we get to one. As Your Honor just laid it out, a hundred --
12 as long as we can do 150 days and if, after that period, you
13 haven't filed, you're deemed to be in, we'll just make sure
14 the disclosure is robust.

15 THE COURT: Okay. Thank you. Okay. Anything
16 else, Mr. Lipson?

17 MR. LIPSON: Yes, just a couple of quick things.
18 First, I apologize if we didn't make that issue clear enough
19 at the outset, but the procedures themselves weren't
20 provided until very recently.

21 THE COURT: That's fine.

22 MR. LIPSON: I apologize if that wasn't clear.
23 But my understanding, just for the clarity of the record, is
24 that if you fail to exercise the option one way or the
25 other, the Debtors will put you into one category or the

1 other. They are not simply disallowing your claim. Is that
2 correct, Your Honor?

3 THE COURT: Well, except -- I think the
4 consequence of not acting is that you would be in the non-
5 judicial liquidation --

6 MR. LIPSON: Of course.

7 THE COURT: -- mode --

8 MR. LIPSON: Of course.

9 THE COURT: And that mode will have a deadline and
10 I think --

11 MR. LIPSON: Of course.

12 THE COURT: -- I don't have a problem with the
13 notice saying, you have to provide this information by the
14 opt in deadline, so --

15 MR. LIPSON: Yeah.

16 THE COURT: -- it just needs to be clear you're in
17 one or the other.

18 MR. LIPSON: Right. So then, I think we've
19 addressed that one.

20 THE COURT: Okay.

21 MR. LIPSON: We did have two points on the best
22 interests issue, which I'm happy to address now, I'm happy
23 to address later. It's really whatever is best for Your
24 Honor.

25 THE COURT: Now is good.

1 MR. LIPSON: Okay, so Your Honor pointed out,
2 correctly, that there are two ways of thinking about the
3 personal injury claims. One, those that could possibly be
4 asserted directly against non-Debtors and those that would
5 be derivative. And that, I think, is a helpful way of
6 thinking about this. I think the point that we raised with
7 respect to best interests is that the early version said
8 nothing about what would happen, what the value of those
9 direct claims which, obviously, creditors would retain in a
10 Chapter 7 liquidation.

11 The Debtors have added a footnote in the
12 liquidation analysis saying, essentially, well, you would
13 retain those direct claims, whatever they are, in a
14 liquidation. But none of the numbers in the liquidation
15 analysis change and there's no other valuation. Now, the
16 Debtors' response, obviously, as well, these are speculative
17 and they're hard to estimate and we don't know.

18 And I understand that. But, having said that,
19 Your Honor, I think everybody knows that shortly before
20 petition date, it sounds like that Sacklers did lose two
21 motions to dismiss that asserted direct claims against them.
22 They were not personal injury claims, as I understand it.
23 Nevertheless, they established that maybe there is --

24 THE COURT: But the plan --

25 MR. LIPSON: -- direct claim --

1 THE COURT: The plan discusses personal -- non-
2 derivative third-party claims, in the discussions --

3 MR. LIPSON: Can I just -- they added a great deal
4 of material on it. That's correct, Your Honor. But what
5 they didn't say, and I think any creditor reasonably would
6 want to know, is by the way, there were these two motions to
7 dismiss against the Sacklers that were denied shortly before
8 bankruptcy, and we -- they must've had some value, Your
9 Honor, otherwise, we wouldn't have worried about the
10 preliminary injunction. We wouldn't be worried about the
11 non-Debtor releases.

12 I'm not asking for a precise number. I am asking
13 for disclosure of the fact that it sounds like shortly
14 before bankruptcy --

15 THE COURT: I think that --

16 MR. LIPSON: -- some plans were making --

17 THE COURT: The discussion actually references
18 motions to dismiss, both granted and not granted, and then -
19 -

20 MR. LIPSON: I don't -- as to non-Debtors, I
21 didn't see it, Your Honor. If I did -- if I missed it, I
22 apologize.

23 THE COURT: I think it does.

24 MR. LIPSON: If the Debtors are willing to make
25 that clear, then I'm fine on that. There's only one other

1 issue.

2 THE COURT: Okay.

3 MR. HUEBNER: Your Honor, let me help for a
4 second, if I may. If the disclosure statement does not
5 already reference those two decisions, I think we're
6 probably happy to add them. Obviously, this is just about
7 more information which we're always good with. But just to
8 potentially help people along, I'm actually going to take
9 two minutes and explain some more of our thinking about
10 this.

11 It will be our burden at confirmation, but it's
12 just critically important to me that the Court and all
13 parties -- frankly, the objectors maybe most of all,
14 understand that we believe we have considered, really, an
15 almost innumerable number of things. The issue, to us, is
16 not that an individual plaintiff might not win a lawsuit
17 against the Sacklers at some point.

18 The issue is that there are hundreds of thousands
19 of them, and the collective tragedy of the commons is -- or
20 negative tragedy of the commons, I'm not sure which way to
21 think about it -- is that if every one of those lawsuits
22 proceeds, they are competing with the estate. They are
23 competing with a fair and efficient distribution. The
24 Sacklers would use all of their resources, obviously, to
25 avoid the cataclysmic outcome of losing those lawsuits.

1 Billions would probably be spent on legal fees.
2 It would be years until, if ever, individual claimant might
3 actually get a recovery, because, presumably, the Sacklers
4 would fight as long as the needed to, appeal as they needed
5 to, and then if it really came to that, because the
6 judgements were overwhelming, declare bankruptcy in the U.S.
7 fora or other fora, as they needed to, and ultimately, they
8 would be in control of those bankruptcies as opposed to sort
9 of fiduciaries for the estate who are the plaintiffs
10 opposite the Sacklers.

11 And so, we're not taking the view, which is why we
12 might not have cited those two cases, in the disclosure
13 statement that no one is going to win an individual claim
14 against the Sacklers, nor is that remotely our burden. I
15 don't actually believe it to be true, as it happens. You
16 know, you roll the dice 100,000 times or 10,000 times or
17 2,000 times or 1,000 times, every combination of numbers
18 some up. That's just now math works, and it's certainly how
19 our legal system works.

20 So, from the first moment of these cases, the
21 ethos that has been animating us that I believe is shared by
22 the Court and, frankly, virtually every stakeholder in the
23 case, is a collective action approach to, frankly, get the
24 most money we can including from the Sacklers. So, I just
25 want to be clear. We're not going to be able to put on a

1 case at confirmation, nor would we ever try, that -- but I
2 don't know if he prefers to be called Professor Lipson or
3 Mr. Lipson -- I'm actually trying to be maximally
4 respectful, but I don't know which is better -- that
5 Professor Lipson's client would lose against the Sacklers
6 and that's why we win the best interest test. We would
7 never do that.

8 As you know, Davis Polk has never defended having
9 zero liability and that we win every lawsuit. That has been
10 something we sidestepped from the information brief that was
11 filed within one second of the filing.

12 The issue isn't if Professor Lipson's right and
13 his client and 600,000 other clients and 48 states and the
14 federal government and 30,000 municipalities all have valid
15 claims and they all pursue them individually, first of all,
16 the estate claims, we believe, are radically stronger,
17 including with the ability to invade the Sacklers' trust,
18 potentially, on a fraudulent transfer theory, so we actually
19 think they lose to the estate in a world of limited
20 resources.

21 But if they all won, they all lose, and in the
22 end, lawyers make billions and claimants, potentially, get
23 little to nothing, and it's years and years away. That is
24 our view on best interest that we will be prepared to show
25 at confirmation. We may be wrong, Your Honor, but we truly

1 believe that the path that we have in front of us is the
2 best available to help the American people and each of the
3 stakeholders.

4 THE COURT: Okay. Well, I think the disclosure
5 statement's additions that were in the version for the third
6 amended plan make all those points and I think, under the
7 circumstances, the liquidation analysis is sufficient when
8 coupled with that now pretty lengthy discussion.

9 MR. LIPSON: Your Honor, thank you. I did have
10 one other best interest point to make if that's okay. And
11 again, it sounds like the Debtors are not willing to add
12 language about those litigations, and so be it. We're not
13 here, litigation confirmation. We understand that this is a
14 collective action problem, but we also understand that, you
15 know, the best interest test is an individual test. It's
16 not a collective test. But we're not litigating that now.

17 We, obviously, reserve all of our rights to deal
18 with that at confirmation. The other disclosure issue with
19 respect to best interests, involves the, what you call or I
20 think you characterize as the derivative claims, such as
21 veil piercing, that could be asserted against -- might be
22 (indiscernible) against the Sacklers. And I think it would
23 be helpful for there to be some explication of the
24 relationship between the standard that the Debtors have
25 articulated in the disclosure statement for doing that, on

1 the one hand, versus statements that they've made in both
2 their preliminary injunction complaints and in the
3 settlement with the Department of Justice.

4 And very briefly, it's that the -- I think the
5 standard to -- they articulate for piercing the veil
6 involves showing that the shareholders exercised complete
7 domination over the corporation and did so to perpetrate
8 some sort of wrong. Fine. That's a standard that may or
9 may not be correct. I have no view on that. We know from
10 the Department of Justice settlement, the Debtors' own plea
11 agreement, I believe, that there's statements to the effect
12 that the certain member of the family that were on the board
13 were acting as the de facto CEOs of the company at certain
14 points in time. Well, those two things seem to be in
15 conflict.

16 Obviously, the disclosure statement is not the
17 place to resolve that conflict, but if I'm a reasonable
18 creditor, I'd like to know about that statement, because
19 maybe I don't want to vote for a plan that releases them,
20 because I don't want to give up that set of right.

21 THE COURT: Well --

22 MR. LIPSON: And --

23 THE COURT: I think, frankly, if you're going to
24 do that, then you should also refer to the Second Circuit,
25 and frankly, it's around the country law that makes clear

1 that those rights, unless the actions were addressed to a
2 particular creditor, are derivative, and therefore, not a
3 third party's rights, going back to --

4 MR. LIPSON: I --

5 THE COURT: -- St. Paul Fire and Marine v. Pepsico
6 and there's a good discussion in Cabrini Medical Center, 489
7 B.R. 7 (S.D.N.Y. 2012) from Judge Scheindlin, so again, we
8 were talking about releases and I was a little surprised
9 that creditors weren't made aware of those -- of that
10 caselaw, which basically says that's an estate cause of
11 action, not a third-party cause of action, i.e., veil
12 piercing, unless the exception is established, so I think if
13 it goes anywhere, it's not on the non-derivative causes of
14 action, the third-party causes of action. It would be in
15 the Debtors' evaluation of the settlement, and --

16 MR. LIPSON: I think that's correct, Your Honor.

17 THE COURT: I'm loathe to add anything to that
18 section, since it's already in seven single-spaced pages,
19 but I think, there is a cross reference to the facts
20 attached to the DOJ judgment, but if not, there can be one,
21 I suppose. I don't have a problem with that, cross
22 reference to it.

23 MR. LIPSON: I think that, and I think the fact
24 that the Debtors, you know, have certainly said that they
25 were inextricably intertwined with the Sacklers, which seems

1 to go to this same set of standards. I think --

2 THE COURT: Well --

3 MR. LIPSON: -- that's information the Debtors
4 would want to know about.

5 THE COURT: I think that would be a good subject
6 for a law school exam, not a disclosure statement, so I
7 think we don't need to get into that level of detail.

8 MR. LIPSON: Okay. With that, Your Honor, I --
9 we, obviously, reserve our rights to address these issues at
10 confirmation, but thank you very much for hearing us and
11 thank you to Davis Polk for working with us.

12 THE COURT: Okay. Okay, Mr. McClammy.

13 MR. MCCLAMMY: Thank you, Your Honor. One last
14 one from me before I turn the podium over to Mr. Klein.
15 Late last night, there was a submission. It wasn't even a
16 filing. I believe chambers may have received an email with
17 a letter from the Miley Legal Group purporting to represent
18 156 children who filed claims --

19 THE COURT: No, I read that.

20 MR. MCCLAMMY: -- in the bankruptcy and --

21 THE COURT: I read that. I don't really -- I
22 mean, I find -- I don't know if counsel for them is on the
23 phone. No? I mean, I read the letter. It's -- to me, it's
24 a straight confirmation objection issue as to the allocation
25 as between the various personal injury claimants, i.e., the

1 NAS group on the one hand and the non-NAS PI group on the
2 other. Of course, there's a separate NAS trust as well.

3 I think those are all confirmation issues. I
4 don't think they really raise a disclosure statement issue.
5 I think the disclosure statement sets out, I think, a -- one
6 can reasonably, particularly if you are representing 150
7 people, particularly since you weren't involved in the
8 negotiations and chose not to be, I gather, figure out on
9 your own or pretty well figure out on your own why there's
10 the distinction as far as the amount of payment to each
11 party, i.e., potentially more for someone who died.

12 But, so to the extent it would be viewed as a
13 disclosure statement objection, I'll overrule it.
14 Obviously, those --

15 MR. MCCLAMMY: Thank you, Your Honor.

16 THE COURT: Those issues are reserved for
17 confirmation.

18 MR. MCCLAMMY: Thank you, Your Honor. Just wanted
19 to make sure that we had the record clear with that. And
20 with that, I'll turn the podium over to Mr. Klein.

21 THE COURT: Okay.

22 MR. KLEIN: Thank you, Your Honor. For the
23 record, Darren Klein from Davis Polk. Can you hear me?

24 THE COURT: Yes. Fine, thanks.

25 MR. KLEIN: I believe that takes us up to the

1 objection of the nonconsenting state group --

2 THE COURT: Okay.

3 MR. KLEIN: -- at Docket 2762, so I would turn it
4 over to Mr. Troop, unless Your Honor wants to do it
5 differently.

6 THE COURT: No, that's fine. I'll handle this
7 like I handled the other ones, which is, I'm going to ask
8 you, Mr. Troop, what, in light of what has been filed, since
9 the declaration was filed, is the nonconsenting state group
10 pursuing at this point?

11 MR. TROOP: Thank you, Your Honor. Andrew Troop
12 for the nonconsenting state group. I'd like to thank Mr.
13 Klein and his colleagues for their time just this past
14 Sunday morning to talk with us about our disclosure
15 statement objections. I think during that process,
16 (indiscernible) a lot of information and I also think that
17 it will help narrow some issues here today.

18 Your Honor, I'm just going to preserve the record
19 for some things, but I understand I'm not going to change
20 your mind on some things.

21 THE COURT: Okay.

22 MR. TROOP: (indiscernible). Thank you. Your
23 Honor, with respect to when the plan supplement should be
24 filed, I very much appreciate the fact that there's a lot of
25 stuff put on the record today about the most critical issue

1 in this case, I think, with respect to parties deciding to
2 vote yes or no. And I haven't had a chance to look through
3 that, but what I did hear today is that this ultimate
4 document and what's been filed today is anything but easily
5 accessible and readable.

6 I heard things about ten pods, which I've heard
7 about before, but I don't know what they are, who they are.
8 I heard about, effectively -- and maybe I misheard it --
9 I've heard about different collateral and covenant packages
10 for each pod. I've heard about different levels of
11 liability as or among the pods. And from a timing
12 perspective, Your Honor, however complete the terms sheets
13 were that were filed today, having only ten days before the
14 voting deadline to look at final documents that would clear
15 up questions, raise questions, resolve open issues, that
16 still seems small, like too little time, Your Honor.

17 And we didn't ask for much more. We understand
18 that the Debtors are pushing for a quick (sound drops) I
19 think, at this point, too quick, but a quick process to get
20 to confirmation, and we asked for two weeks. And it's hard
21 to say -- I shouldn't say that. (indiscernible), Your
22 Honor.

23 It strikes me that these documents that have been
24 listed for the plan supplement, in particular, the Sacklers'
25 settlement agreement, need to be finalized at least two

1 weeks before the filing and nobody needs that extra four
2 days that you gave them, so I would ask you to reconsider
3 that timing issue and to require the final date for the plan
4 supplement to be two weeks before the filing deadline.

5 I'm going to run through them all, Your Honor --

6 THE COURT: Well, again, the -- I think, given the
7 detail that is filed before then, people can certainly
8 prepare to read those documents and raise issues with them
9 before the hearing, with the seven days' notice. I have to
10 balance the need to get this addressed at confirmation with
11 people's ability to function. We're talking about people
12 who have very sophisticated counsel and I think, obviously,
13 have a real interest in this matter, so with the caveat that
14 if there are real changes from the terms sheet, I don't see
15 why the seven days isn't sufficient.

16 MR. TROOP: (indiscernible).

17 THE COURT: It may be --

18 MR. TROOP: (indiscernible) ten days, Your Honor.

19 THE COURT: Well, whatever. I think it's seven,
20 actually.

21 MR. TROOP: Seven?

22 THE COURT: Yeah.

23 MR. KLEIN: It's seven, Your Honor.

24 THE COURT: So, but I think that, again, if people
25 have questions, my experience is that if they're legitimate

1 questions and not just intended to delay things and I am
2 pretty sure you would fall into the former camp and not the
3 latter one, the Debtors and their counsel will give people
4 more time and engage, and if they don't and there's a good
5 reason to give you more time, I would do it. So, you know,
6 the deadline works two ways. If you really do need more
7 time, because the document raises a whole host of issues,
8 materials ones that can't be reviewed in that period before
9 the objection deadline, I'll give you more time to object,
10 but --

11 MR. TROOP: -- actually --

12 THE COURT: -- deal with that then as opposed to
13 now, because in my view, deadlines actually lead to
14 agreements and results and I think this is a sufficient
15 deadline here.

16 MR. TROOP: Thanks, Your Honor, but to be clear, I
17 wasn't considering the issue of being teed up for the
18 objection deadline with respect to the plan, which is longer
19 than seven days after the plan supplement. I was focused on
20 the voting deadline.

21 THE COURT: Well --

22 MR. TROOP: Seven days before the voting. And so,
23 it's not an issue.

24 THE COURT: That, too, could be --

25 MR. TROOP: To me --

1 THE COURT: -- extended on agreement. All right?

2 MR. TROOP: Understood, Your Honor.

3 THE COURT: Okay.

4 MR. TROOP: Okay, thank you. Your Honor, the next
5 issue with respect to -- been raised with respect to the
6 term listings, and I very much appreciate the additional
7 disclosure. I remind the Court only that under the phase
8 one agreements, these abatements with respect to attorneys'
9 fees have to be acceptable to the creditor group, as a
10 group, and that includes my group and my (indiscernible).
11 And we have not consented, and are not taking a position on
12 the merits at the moment. We saw the final proposal, just
13 as you did, and it's out there, Your Honor --

14 THE COURT: That's fair, but I do expect your
15 group to engage on it.

16 MR. TROOP: Right.

17 THE COURT: And I know they will.

18 MR. TROOP: As we have in the past and will again
19 (indiscernible), Your Honor. The next issue has to do with
20 that seven-page, or whatever it is (indiscernible) depending
21 upon who's telling, description of the Sackler settlement,
22 and Your Honor, only you can decide whether that description
23 adequately answers your questions for the Debtors to have
24 set forth the pros and cons of that settlement, and, as you
25 remarked, there may not be much that my client needs to know

1 more, given our involvement in it.

2 And so, I make my disclosure statement,
3 disclosure-disclosure comments about that section, in a very
4 focused way. One of the things that I think everyone needs
5 or is entitled to know is what the Sacklers are worth today.

6 THE COURT: What they're worth?

7 MR. TROOP: What they're worth today, right?

8 THE COURT: I don't -- you know --

9 MR. TROOP: I think that gauging a settlement and
10 gauging the claims has a lot to do with, what are they
11 worth.

12 THE COURT: It's not -- Mr. Troop, when you say
13 "they," you mean each individual person and then have a line
14 as to, you know, collectability because they're offshore and
15 then a line saying risk of liability? I mean, I think it's
16 -- I guess if you're going to say it in the aggregate, you
17 have to make all those other points, right, or else that
18 could be misleading. You know, it's not like, as I gather,
19 Scrooge McDuck, who just, like, takes a bath in the vault of
20 cash that he has in his apartment, right.

21 There's not -- A, there's not one Scrooge McDuck.
22 There are a lot of them. B, it's not cash. You know, so
23 there are a lot of permutations to what you're suggesting.

24 MR. TROOP: Your Honor, I do think, fundamentally,
25 that's the kind of information that individuals are being

1 asked to effect -- being asked. Not being asked, maybe
2 compelled --

3 THE COURT: Well --

4 MR. TROOP: -- to give up their direct claims
5 against the Sacklers, should know, Your Honor. It's the
6 kind of information they would ask for on their own, if they
7 were being asked --

8 THE COURT: All right. All I'm saying -- you're
9 going to say there's an aggregate value that the Debtors
10 believe the Sacklers are worth, and I'm not even sure if
11 that's net of liabilities or just before liabilities, but
12 value they're worth. One would also have to say, there are
13 many of them. Some are worth more than others within that
14 aggregate group. Some have liabilities that are -- I mean,
15 some have different levels of potential liability and some
16 have different levels of collectability in respect of the
17 assets that they have.

18 I guess one could say that. it's not that helpful
19 when you actually address all of those points, but I guess
20 one could say that.

21 MR. TROOP: And again, Your Honor, I'm thinking of
22 this from the perspective of, what would an individual who's
23 being asked to give up their claims --

24 THE COURT: Well, but --

25 MR. TROOP: -- against parties, take into account?

1 Because I really am going to try not to engage, too much, on
2 --

3 THE COURT: I'm agreeing with you, Mr. Troop. I'm
4 just saying, that you have to put -- you can't just say
5 they're worth, pick a number, \$11 billion. You can't just
6 say that, because that's actually misleading. That would
7 mislead someone to think that I could recover up to \$11
8 billion. It's just not -- that's not fair.

9 That actually is misleading, on many grounds, even
10 before you get to the merits, so if one is going to put a
11 number down, you have to say those other things, and I'm --
12 I guess I'm okay with it in that context, being said, but
13 just basically just saying that and I'm reacting to it,
14 because the objection actually said, and the U.S. Trustee's
15 objection mirrored this, that someone doesn't explain how
16 you can't collect, in essence \$11 billion from these people,
17 and as, I think, every lawyer on the phone knows, if you
18 just say \$11 billion, people who aren't lawyers think oh, I
19 can collect \$11 billion. Just, that's misleading.

20 MR. TROOP: Your Honor, I think --

21 THE COURT: Mr. Klein, do you have any problem
22 with saying that there have been statements by the Sackler
23 families themselves that, in the aggregate, their net worth
24 is X and combine that with a statement about, obviously,
25 that's a aggregate net worth. There are different people

1 who have different net worth within that aggregate number
2 who have different levels of potential liability and
3 finally, who have different levels of collectability?

4 MR. KLEIN: Your Honor --

5 MR. HUEBNER: Your Honor -- hey, Darren, sorry.
6 Your Honor, this is a special committee issue, and actually,
7 this isn't me (indiscernible) on a Mr. Klein thing. I
8 apologize to him if it's not, that he probably doesn't know
9 the right answer. I'm sure he does, but I -- we've actually
10 been very careful about this and those are not meetings he's
11 in, so I would like to answer, and with apologies to Mr.
12 Klein.

13 THE COURT: All right.

14 MR. HUEBNER: The special committee absolutely
15 took exactly these things into account. There was very
16 detailed financial diligence about the individual wealth and
17 individual liquidity of individual Sackler pods, which is
18 why each of the eight A-side pods, frankly, has a slightly
19 different collateral package and a slightly different set of
20 covenants, and I think that it is the Debtors' settlement
21 and our job is to show that it is reasonable, not, in fact,
22 to publish every piece of information --

23 THE COURT: But I'm not --

24 MR. HUEBNER: -- what was received in doing so.
25 No -- I know, I'm --

1 THE COURT: -- talking about publishing or not. I
2 think we're basically saying --

3 MR. HUEBNER: No, agree. I'm about to --

4 THE COURT: -- aggregate statement, which is out
5 there in the press, and say how it was analyzed, not --

6 MR. HUEBNER: Yeah, no --

7 THE COURT: -- steps that were taken.

8 MR. HUEBNER: Yeah, I was about to get to, yes.

9 THE COURT: Okay.

10 MR. HUEBNER: I was literally going there next.

11 THE COURT: Okay.

12 MR. HUEBNER: Which is -- and therefore, we are,
13 of course delighted to add more language that essentially
14 says -- and I'm assuming the Sacklers would tell us if they
15 believed that what Congress put out as having been submitted
16 by the Sacklers is not correct, that we were aware of the
17 aggregate wealth number as well as substantially more
18 detailed information that the Debtors and the UCC and the
19 AHC and the MSGE all had access to and took all of that into
20 account, including different levels of wealth, liquidity,
21 potential liability, and accessibility, as part of coming to
22 the settlement and the individual terms sheets.

23 THE COURT: Okay.

24 MR. HUEBNER: Delighted to do that.

25 THE COURT: All right.

1 MR. HUEBNER: Absolutely, full stop. It's a fair
2 request and we're happy to add it.

3 THE COURT: Okay.

4 MR. TROOP: Thank you. Thank you, Your Honor. If
5 I may, then, just one other point on that.

6 THE COURT: Sure.

7 MR. TROOP: The information that was provided or
8 at least released by the Congress is out of date
9 information. I believe that for Side A, it was as of
10 September 2019, and I can't remember whether -- I honestly,
11 just at the moment, can't remember what the information was,
12 with respect to Side B.

13 But I also know that within our groups, we don't
14 have updated information that's not eight or nine months
15 old, and so I'm assuming that either the Debtors relied on
16 the existing, out-of-date information or they got updated
17 information and that what would go in the -- if they had
18 updated information, what would go in the disclosure
19 statement would be based on the updated information, the
20 diligence that they undertook, and consideration, in
21 connection with reaching this agreement. Or, if they relied
22 on the other, they should say that, too. People should just
23 know.

24 THE COURT: Okay. In the aggregate.

25 MR. HUEBNER: Yeah, Your Honor, we'll put in what

1 we can. I don't want to over speak, given that a lot of the
2 financial diligence was done by, essentially, kind of
3 forensic financial advisors, from Alix and otherwise,
4 similar to how the massive reports on Sackler transfers on
5 the docket were done, but Mr. Troop's question is a fair
6 one.

7 Again, balancing the disclosure statement is --
8 and TMT Trailer required adequate information. We'll be as
9 sensitive as we can to saying as much as we can about the
10 quality and nature of information, knowing that you're not
11 looking for a new white paper on this.

12 Mr. Joseph, there's a lot of background noise, if
13 you could just wait until I'm done, if you don't mind, and
14 stay on mute.

15 So, we'll add some stuff, is the short answer, and
16 do the best we can. Again, we're very pro disclosure and
17 happy to explain, as I think I'm making possibly painfully
18 obvious, what went into our thinking and the incredible
19 amounts of information that was synthesized to come to the
20 conclusions, and we're happy to say a little bit more about
21 it as best we can.

22 THE COURT: Okay.

23 MR. JOSEPH: Your Honor, Gregory Joseph for Side
24 B, just briefly. In the position statement that we provided
25 to the Court, we linked to a website that has the

1 information we provided to Congress about all financial
2 information, which included a bring-down as of March 2021.
3 There's a lag time involved --

4 THE COURT: Right.

5 MR. JOSEPH: -- but it's current (sound drops)
6 information --

7 THE COURT: Okay.

8 MR. JOSEPH: -- given that lag time. So that's
9 already public.

10 THE COURT: All right. And there is a hyperlink
11 in the document, but I think --

12 MR. JOSEPH: Right.

13 THE COURT: -- still putting that in the section
14 of the disclosure statement is, as discussed the last few
15 minutes, is worthwhile, so that's fine.

16 MR. HUEBNER: Yep. Done.

17 THE COURT: Okay. Anything else, Mr. Troop?

18 MR. TROOP: Yes, Your Honor. I'm just scrolling
19 through my notes.

20 THE COURT: Okay.

21 MR. TROOP: Sorry. Your Honor, this morning, when
22 Mr. Huebner was getting his summary, he talked about how the
23 negotiations had been over, how to make the settlement with
24 the Sacklers money good. And I apologize for a second, Your
25 Honor. My allergies are kicking in, so my voice may be

1 (indiscernible) in and out.

2 I think one of the things that the disclosure
3 statement should explain to people is why the Sacklers
4 settlement is money good, and why it doesn't suffer from the
5 same collection issues that have been raised with respect to
6 the existing claims, and I make that point, Your Honor,
7 again in -- admittedly with some level of (sound drops),
8 because I haven't been through all of the -- or, frankly,
9 any of the documents filed this morning.

10 But again, my understanding is that there are ten
11 pods with, effectively, ten different sets of agreements
12 with ten different potential results if any one of the ten
13 default -- one. And two, then there are collection issues
14 at that moment in time. And I think parties are entitled to
15 understand what those challenges are. I heard Mr. Huebner
16 say that, you know, the net of litigation --

17 THE COURT: Can I interrupt you, Mr. Troop? And I
18 tried not to interrupt you too much, because I don't like to
19 interrupt you, any more than anyone else. But to me, just a
20 reference to the efforts that the Debtors, the Committee,
21 and others have made and obtained to enhance the
22 enforceability of the payment of the settlement, is enough.
23 Beyond that, you're really speculating, and you're
24 speculating, again, in this context.

25 It's a choice of someone to vote in favor of the

1 plan or not, and we're talking about in favor of the release
2 or not, and all of those concerns would exist in spades if
3 they didn't -- if there were not a contribution and there
4 were not a release, because you wouldn't have anything. You
5 wouldn't have the guarantee. You wouldn't have collateral.
6 You wouldn't -- et cetera.

7 So, I think, at that point, you're getting a
8 couple steps removed from what people really need to focus
9 on, but it's certainly fine to highlight, and I'm assuming
10 that the modified disclosure statement does -- I just
11 haven't had a chance to review it -- that, in fact, these
12 terms have been negotiated. They're in the terms sheet and
13 the purpose of it, as sought by the estate parties, was to
14 enhance the collectability if there was ever a default.

15 MR. KLEIN: Your Honor, it's Darren Klein. You're
16 correct that the terms sheets that were filed this morning,
17 some of them focused exactly on the security from the ten
18 different pods and the covenants that various different pods
19 are signing up to, all of which was up to the last minute
20 being negotiated exactly for this reason, to maximize
21 (indiscernible).

22 THE COURT: But again, it's -- I don't think
23 anyone reading the document would assume that, you know,
24 that this is the equivalent of a letter of credit. But on
25 the other hand, I think they would also realize that their

1 alternative is far away from a letter of credit as well, so
2 I think that's sufficient.

3 MR. KLEIN: Thank you.

4 MR. HUEBNER: Your Honor, just one second on this.
5 I want to correct one thing that I was not aware of before.
6 In addition to the hyperlink to the Sacklers' presentation,
7 which I (indiscernible) much more brought down financial
8 information, we actually did already put in the new section,
9 on Page 137, that the \$11 billion figure released by
10 Congress, and so I do want to note that we actually did do
11 that, and so I think that that's --

12 THE COURT: I thought you did, but I think the
13 context in which the special committee considered it is
14 worthwhile because it is --

15 MR. HUEBNER: No, no, that -- agreed. I'm not
16 reopening what -- the change we are, for sure, already going
17 to make. I just wanted to let the Court and the world know,
18 and these are, obviously, all things we considered. One
19 last thing, as I've mentioned this.

20 I think probably -- we probably spent a fair
21 amount of time on this, but whether or not any party in this
22 case, even after two years, has any reason to doubt the
23 complete integrity and dispassion of the Debtors itself, it
24 does bear mention, because people very often confuse and
25 forget this, that the UCC, which has been a bitter --

1 bitterly opposed litigant and a passionate litigant opposite
2 the Sacklers and the consenting states and MDL, PC -- and
3 MDL PC was one of the original litigants that brought all
4 this to where we are today -- as well as the MSGE, we're all
5 the counterparties here, and I think that, frankly, every
6 party should take comfort that there are four serious
7 adverse parties who've been facing the Sacklers for months
8 negotiating things like a billion dollars of pledged
9 collateral, in addition to a pledge of the multibillion
10 dollar IACs plus customized covenant packages --

11 THE COURT: Okay, but, again, I think this is in
12 the disclosure statement, so I want to just --

13 MR. HUEBNER: Correct.

14 THE COURT: -- focus on what's before me today,
15 which is the disclosure statement.

16 MR. TROOP: Thank you, Your Honor. And again, to
17 the extent that it wasn't clear, the objection on this point
18 and the request for additional information --

19 THE COURT: Right.

20 MR. TROOP: -- was not intended to suggest that
21 Mr. Huebner and his team, Mr. Preis and his team, Mr.
22 Eckstein and his team, Mr. Gilbert and his team, Ms.
23 Cyganowski, Mr. Maclay, haven't worked their tails off to
24 try to get the best -- to try to get a package that they
25 think is the best that they can. The request was, or the

1 issue was, that if where they could get through negotiation,
2 continues to have sufficient collectability risks upon
3 default, then parties who are being able to give up their
4 claims ought to know that they may just be trading a problem
5 they have now for a problem they'll have later. And I --
6 and Your Honor --

7 THE COURT: Again, people will be able to evaluate
8 that by seeing the terms sheet with the collateral and the
9 like. I just -- beyond that, you really are speculating
10 about people and businesses and the economy and again, if
11 you do that, then you're just going to invite more
12 discussion, although there's plenty of it in there already,
13 about people's ability to collect, if the pursue individual
14 causes of action. So, I think we have to draw a balance
15 here. I think what we've come up with is sufficient.

16 MR. TROOP: I understand your ruling, Your Honor.

17 THE COURT: Okay.

18 MR. TROOP: The next part of the objection that, I
19 think, I want to address has to do with -- I'm sorry. One
20 second. Your Honor, I'd like to talk for a moment in a very
21 brief moment about the public document repository. You, in
22 a prior draft of the plan, there was a footnote which
23 identified that this issue had not yet been resolved and was
24 still being addressed, and I note that this is an issue that
25 we're addressing together with the consenting states and not

1 independently.

2 That footnote has been dropped from the disclosure
3 statement and the plan. Today, during the course of the
4 hearing, we received an email from Dechert, not bankruptcy
5 counsel, but counsel to the Debtors, confirming that the
6 dropping of that footnote was not intended to suggest that
7 there was agreement on the contours of the document
8 discovery or that discussions had ended about it. If what
9 Dechert's told me is wrong (indiscernible), I would
10 appreciate that -- knowing that.

11 THE COURT: Okay.

12 MR. KLEIN: I was on that email, Mr. Troop.
13 Dechert's email is not wrong. We're going to still continue
14 to negotiate the contours of that.

15 THE COURT: Okay.

16 MR. TROOP: Thank you.

17 THE COURT: While we're on that subject, I did
18 have a question about that, that I don't think is addressed
19 -- and maybe this is because you're still discussing it --
20 the documents being provided are subject to privilege. If
21 someone wants to challenge a privilege in a non-Court
22 setting, i.e., a professor or an author, who do they go to?
23 Do they go to the Special Master first and then if she says
24 it's privileged, you can't have access to it, do they go to
25 a Court at that point and, you know, for the Court to pass

1 on that?

2 It just wasn't clear to me how that issue -- I
3 mean, obviously, if it comes up in a litigation context, the
4 judge presiding over the litigation will deal with it, but
5 if it's just someone that wants access to write a book or an
6 article, who is to make that decision, or is that an issue
7 that's still being decided?

8 MR. KLEIN: Your Honor, I could not answer the
9 question, honestly, either way. We're now (indiscernible).
10 Mr. McClammy was still on --

11 MR. VONNEGUT: Your Honor, this is Eli Vonnegut
12 from Davis Polk again. I can answer that question. The
13 short answer is, it's still subject to discussion.

14 THE COURT: All right.

15 MR. VONNEGUT: One of the many features of the
16 document repository --

17 THE COURT: That's fine.

18 MR. VONNEGUT: -- that are continuing to be
19 discussed.

20 THE COURT: I just -- it seemed to me that the
21 plan and disclosure statement didn't address it and I don't
22 think they need to at this point. I don't think it's enough
23 to really -- I mean, obviously, if there's a privilege,
24 someone should have the ability to decide whether it
25 actually is privileged or not and who that someone is, is

1 really less important, I think, than just recognizing the
2 obvious, which is that one does need to have someone decide
3 that issue put in controversy, but I want to make sure that
4 the plan hasn't yet decided that, because if it hasn't -- if
5 it has, then that should be addressed in the disclosure
6 statement, because -- but as you're saying, it hasn't yet,
7 so there's a reason why it's not addressed.

8 MR. KLEIN: Yes, Your Honor. Fully understood and
9 agreed. We are working out parameters for the handling of
10 privileged materials, including the resolution of any
11 disputes as to what is and is not privileged.

12 THE COURT: Okay. All right, thanks.

13 MR. KLEIN: Thank you.

14 MR. TROOP: Consistent with my understanding as
15 well, Your Honor.

16 THE COURT: Okay.

17 MR. TROOP: So, Your Honor, I think that brings us
18 to our big two objections, which are the objections that go
19 to unconfirmability of the plan and not letting this
20 particular disclosure statement go out for solicitation with
21 respect to this particular plan. And in that regard, Your
22 Honor, we're all very familiar with the caselaw, and as both
23 Mr. Huebner and Mr. Lipson addressed the caselaw -- caselaw
24 in this district, stopping plans from going out by not
25 approving a disclosure statement, and Prime Clerk's

1 declaration makes it clear that going out for solicitation
2 on this plan is an expensive process.

3 It may be less than the fees the estate is paying
4 out on a monthly basis, but it's an expensive process, and
5 therefore, whether to defer or not, is a meaningful issue in
6 this case. And within the objection, Your Honor, I'm really
7 going to -- I've really decided to focus just on two -- two
8 (indiscernible) of it today. And they are, whether the
9 (sound drops) should send out for solicitation a plan that
10 24 states and the District of Columbia have said they will
11 not support with the releases that were in it, or the
12 Sackler settlement -- with the Sackler settlement.

13 Letting it go out on the hope that that
14 circumstance will change incurs expense when I both believe
15 is (indiscernible) and the law that representatives of
16 (indiscernible) percent of the United States saying no, will
17 undercut, I don't know what (indiscernible). Your Honor, I
18 don't (indiscernible).

19 THE COURT: I'm sorry, I couldn't hear that last
20 point.

21 MR. TROOP: I don't know why we're getting
22 feedback, Your Honor. I don't think it's me.

23 THE COURT: Oh.

24 MR. TROOP: I can't see --

25 THE COURT: Yeah, I'm not hearing feedback. Just

1 your voice lowered, that's all.

2 MR. TROOP: I don't think that on these facts at
3 this time, this plan is confirmable and it should go out for
4 a vote. Doing that doesn't derail anything else that is
5 going on in the case in the hopes of reaching a resolution,
6 and without (indiscernible) and updating the Court, without
7 updating anyone any details, it's not that Judge Chapman is
8 waiting to get started. Judge Chapman has gotten started
9 and spent, I think, a lot of time with many of us.

10 The second thing that I would focus on, Your
11 Honor, is the classification issue. This plan fairly
12 offends states on many levels, and one level on which it
13 offends states is that between the combination of the
14 estimation proposal of a dollar per claim and being put into
15 a class that will be decided by its political subdivisions -
16 - political subdivisions, giving the numbers, period, period
17 -- that it turns the relationship embedded in our
18 constitution, and in every state, on its head and it doesn't
19 --

20 THE COURT: What constitutional provision deals
21 with classification of the claims of states and local
22 governments?

23 MR. TROOP: It reserves to the states' sovereignty
24 and sovereignty over their domains, Your Honor.

25 THE COURT: But each state has set up its own

1 rules with regard to local governments, but they all have
2 the same types of claims.

3 MR. TROOP: But Your Honor, there's nothing that
4 says that states have given up their superiority over their
5 political subdivision.

6 THE COURT: So, are you saying that the states
7 could object to a local government's claim within their
8 state and say, we're not going to let you assert that claim?
9 Your claim should be disallowed because we're a sovereign
10 state?

11 MR. TROOP: I think, in some states, in fact,
12 that's probably true, Your Honor, right? And in fact, I
13 think, for example, in the State of Connecticut it's been
14 held that its political subdivisions don't have standing to
15 assert these kinds of claims.

16 THE COURT: In what context, a class action or in
17 a separate context?

18 MR. TROOP: I --

19 THE COURT: But standing is a different issue,
20 right? We're not really --

21 MR. TROOP: They're not --

22 THE COURT: -- which types of claims we're talking
23 about.

24 MR. TROOP: They don't have the power to assert
25 the claim.

1 THE COURT: Well, you can object to the claim,
2 then, on that basis, but until it's objected to, it's a
3 claim and it's based on the same facts, I think, that the
4 states are asserting.

5 MR. TROOP: Some, not all.

6 THE COURT: But let me go to a different point.
7 It's really not clear to me, ultimately, whether this
8 argument matters. The plan contemplates and the law
9 contemplates that if I think that someone does have a
10 classification objection, it's not a treatment objection,
11 right, it's the same treatment, and you all haven't opposed
12 that. In fact, you negotiated that in phase one
13 (indiscernible).

14 I can say, count these votes and put them in Class
15 5A or 4A, whatever, and we'll see, and then the Debtors have
16 to satisfy, potentially, a cramdown. I'm not sure that
17 matters here, because the treatment's the same and you've
18 never had a problem with the treatment. The issue is the
19 release and the injunction, so it just seems to me that this
20 is not a reason to stop people from voting -- in fact, not a
21 reason to stop your own clients from voting, no matter how
22 they want to vote, because the only reason it matters is if
23 they vote the way they said they might vote.

24 So, I just -- this, to me, is not an issue that
25 should derail people's voting on the plan, one way or the

1 other.

2 MR. TROOP: Your Honor, I understanding your
3 ruling and I make the assumptions -- but I don't have
4 anything more to argue about it -- that I'm not going to
5 change your mind.

6 THE COURT: Well, I think that's right, because I
7 don't think there's a basis to. I think, at some point, you
8 can try to at the confirmation hearing, although, there's a
9 lot of law that what's classified for purposes of 1122 are
10 claims, not people or entities, and they need to be
11 substantially similar and a plan proponent is given a great
12 deal of flexibility in terms of classification, and to say
13 that people shouldn't be allowed to vote because there's a
14 dispute over that, particularly where the plan and the law
15 would permit the Court, if ultimately there was an issue
16 worth fighting about, and the Court determined that the
17 classification was improper, to just let the Debtors amend
18 the plan and create the new class, particularly where the
19 treatment's exactly the same.

20 MR. TROOP: In that regard, it's interesting, Your
21 Honor, because you can argue about what -- actually, I was
22 (indiscernible). The treatment's not exactly the same. The
23 treatment provides that all the money goes to the states,
24 provides that all the money will go to the states and then
25 it will go to regional and non-regional buckets to which

1 political subdivisions then need to make grants,
2 applications, in order to get --

3 THE COURT: The plan says what it says on that
4 point. All I'm -- the point I'm making is that in the phase
5 one mediation with the caveats that still exist on that, all
6 the states agreed to the allocation among the governmental
7 parties and the non-governmental parties. So, you know, all
8 we're fighting about here is a potential cramdown fight
9 that, to me, doesn't really mean a lot. I just -- so it's
10 not a basis to hold up confirmation -- on voting on --

11 MR. TROOP: Your Honor, as I said, I heard you.

12 THE COURT: Okay.

13 MR. TROOP: You made a statement that I thought
14 was not accurate.

15 THE COURT: Well.

16 MR. TROOP: I, again, didn't think it was going to
17 change the outcome, right, but I did think it was worth
18 identifying --

19 THE COURT: Well, I'm not -- I think the plan is
20 very carefully drafted on the treatment of the non-federal
21 public entities, and I'm not going to characterize it, but I
22 will say that your summary of it, actually, reflects your
23 position about the importance of the states, so again, I
24 think this is -- this really does fall into the category of
25 courts don't let people who have confirmation objections

1 hold up voting, because it, A, is contrary to the idea that
2 people should be allowed to vote, in almost all cases, and
3 B, the purpose behind it is largely a, I think, a tactical
4 one as opposed to, you know, and ultimately practical
5 effect, in this particular instance.

6 But maybe we should go back to the other point,
7 unless -- to me, your -- I had two responses to the argument
8 that the proposed settlement with the Sacklers and the
9 third-party injunction is a issue that should stop the
10 parties in their tracks at this point. The first is that --
11 well, it's one, I think, that your clients should
12 understand. I don't know if they're all elected, but they
13 certainly serve in a public setting. They know the
14 importance of elections, of voting.

15 They also know that people often change their
16 vote, up to the moment that they actually are about to pull
17 the lever. I have heard creditors tell me, time and time
18 and time again, I'm going to vote this way, so you might as
19 well not go ahead. And, frankly, I think the issues are too
20 important here to just accept that at this point and again,
21 it would tilt the playing field too much the other way, if I
22 did so.

23 I think preserving the ability to vote and then to
24 hear the facts, depending on the analysis, is really
25 important and I think if anyone would understand that, it's

1 politicians who listen to their own voters and would want
2 them to evaluate it on the facts as they exist at the time
3 when the vote is due.

4 Secondly, it is a confirmation issue and it's very
5 fact driven, and the caselaw is summarized in the Debtors'
6 reply. I'm not going to have to repeat it to you. You know
7 it well. You know Metromedia. You know Millennium. You
8 know the -- probably, you've read every case involving a
9 plan injunction and third-party release there is. I'll note
10 one other one from the Southern District, which also happens
11 to be from Judge McMahon, In re: Karta Corp. -- K-A-R-T-A
12 Corp. -- 342 B.R. 45 (Bankr. S.D.N.Y. 2006).

13 It's just -- it's a fact-based inquiry and, in
14 part, voting is important. There are times when people vote
15 in favor of something, just because they don't want to have
16 a fight over it, and that may well happen here. Or some
17 people will. But it's a multifactor inquiry, and one of the
18 inquiries is, what are the benefits to someone if they don't
19 get enjoined or have their independent claims deemed
20 released?

21 So, I know that the states have raised, in
22 addition to that, their unique status as states and their
23 police power and their consumer power, but I will note that,
24 while 362(b)(4) references it, 1129 and 1141 don't. I will
25 note, also, that we're talking about money here. There's no

1 question that the Sacklers aren't engaging at this point
2 with these Debtors or the post-reorganization entities, in
3 anything related to opioids. So, we're not talking about
4 enforcement of the police power going forward.

5 We're talking about collecting money, and the
6 Courts, really, have not had any problem in enjoining the
7 exercise of police power when it was to collect money. Most
8 recently discussed in *In re: Peabody Energy*, 958 F.3d 717
9 (8th Cir., 2020). And if you look at the orders in two of
10 the most high-profile cases in history, that certainly
11 involved state claims -- *Enron* and *Washington Mutual*, and
12 these are reported.

13 Those orders provided -- I don't know how much
14 they were liquidated, but the orders provided that the
15 injunction would not prevent the exercise of a state's
16 police or regulatory powers, provided, further, that the
17 foregoing proviso does not prohibit any state from obtaining
18 any monetary recovery from the reorganized party. That's
19 *WaMu* at 2012 WL 1563880 (Bankr. D. Del., February 24, 2012)
20 and *In re: Enron Corp.*, 2004 WL 6075307 (Bankr. S.D.N.Y.
21 2004).

22 So again, it's a nuanced analysis, but I think
23 that to say that people cannot vote on this and even if they
24 vote no, one would clearly not confirm a plan that actually
25 enjoins the rights of states to collect money, because of

1 their police power or based on their police power, where
2 there is no ongoing relationship to be policed, so it's just
3 a debt, is a stretch. It's not --

4 MR. TROOP: Your Honor --

5 THE COURT: It's not the case that you lose on
6 that point. I just think it needs to be decided on a proper
7 record, and that's at the confirmation hearing.

8 MR. TROOP: Your Honor -- and Your Honor, I hear
9 you. I -- as I said, I understand what you're saying. I
10 will simply note with regard to the release language that
11 you read, if I heard it correctly, it mirrors what 364(b)(4)
12 says. It says that you can go out and prove up your police
13 power claims, but you need to come back and collect through
14 this bankruptcy.

15 THE COURT: Right.

16 MR. TROOP: And what that recognizes is that there
17 is a -- among other things, there is a component to police
18 power actions, establishing liability, having matters
19 decided in state courts on those issues that is unrelated to
20 the economic result. But we'll argue more about that later,
21 Your Honor.

22 THE COURT: We will, because actually --

23 MR. TROOP: I just wanted to say that --

24 THE COURT: -- and Peabody actually precludes
25 going and fixing the claim somewhere else, too, but it's

1 another story. In any event --

2 MR. TROOP: It's for another --

3 THE COURT: I just -- look. Fundamentally,
4 there's, I hope, a basic dispute between your clients and
5 the parties who have agreed, subject to the remaining few
6 caveats to the settlement, which is, your clients believe
7 they would do better outside of this case. The courts have
8 said that there are times when people who take that position
9 for the good of everyone else and perhaps even their own
10 good -- although, the courts are kind of circumspect when
11 they say that -- can't do that because, in effect, they're
12 burning money when they do that.

13 And again, this is about money. That's what we're
14 talking about here. We're talking about, you know,
15 collecting money and applying it to abate the opioid crisis.
16 So, I fully understand. It's a perfectly fair point that
17 someone could say, it's not enough or we need this, that, or
18 the other element to the agreement. Hopefully, that could
19 be negotiated. If not, people have a decision to make for
20 the people of their states. Do I take the risk of getting
21 nothing or a lot less, or do I go along with the settlement?

22 And if they don't go along with it, they're
23 certainly entitled to vote no, and then we'll have the
24 hearing on whether they can be forced to go along with it,
25 and I think it's just -- it's appropriate that those steps

1 be gone through, as opposed to cutting off at this point,
2 given the open issues.

3 MR. TROOP: I understand, Your Honor, and I
4 understand that you're not prejudging anything.

5 THE COURT: Right.

6 MR. TROOP: That, in effect, you and I are having
7 a conversation amongst 107 people (sound drops).

8 THE COURT: Correct.

9 MR. TROOP: And that when the time comes, we'll
10 get into it some more, and so I -- but if it were different,
11 we'd keep talking now. But I don't think it's necessary --

12 THE COURT: Right. Look, I mean, your clients
13 have settled claims in the past involving the opioid crisis.
14 It's not a -- something that they're prohibited from doing.

15 MR. TROOP: And no one's ever said it was, Your
16 Honor.

17 THE COURT: I understand. So, I --

18 MR. TROOP: It's always --

19 THE COURT: -- they're evaluating this as it goes
20 along. I also will say, if the plan is improved, obviously,
21 it's unlikely that it would need to be resolicited, so I
22 just don't want to tilt the playing field by stopping the
23 process.

24 MR. TROOP: Your Honor, that does raise, sorry,
25 one drafting issue, which I forgot to mention and I

1 apologize. Section 12.3 of the plan says that the plan may
2 be modified, amended, supplemented by the Debtors in the
3 manner provided for by Section 1127 or as otherwise
4 permitted by law, without additional disclosure pursuant to
5 Section 1125 of the Bankruptcy Code, except as otherwise
6 ordered by the bankruptcy court, provided that they've got
7 consent from certain parties.

8 It strikes me, that the decision as to whether
9 additional solicitation is required under 1145 based upon
10 modifications, is a decision that you need to make under
11 1125 and that the plan or the disclosure statement or the
12 order shouldn't presume that as long as it's signed off on
13 by these people, they don't have to solicit.

14 THE COURT: I agree with that, but I think that
15 language is consistent with that view. The only time when
16 there doesn't need to be more disclosure or re-solicitation
17 is where it is shown to the Court that it's not necessary,
18 which 3018, 3019 permit, under the right circumstances. So,
19 I don't think -- it's awkwardly drafted, because the
20 concepts are multiple, but you can't contract around that
21 modification requirement, and I think the introductory cross
22 governs everything.

23 MR. KLEIN: Your Honor --

24 MR. TROOP: And to be clear, Your Honor, Mr. Klein
25 and I talked about this on Sunday -- and I took a deep

1 breath, and then I'll let you talk -- Your Honor, and he
2 told me that's how he reads this section, and as long as we
3 all agree that that's what it says --

4 THE COURT: Well --

5 MR. TROOP: -- I'm fine with it.

6 THE COURT: That's how I read it.

7 MR. TROOP: I don't want to get bit by it later,
8 that's all.

9 THE COURT: All right. Okay. That's how I read
10 it.

11 MR. KLEIN: For the record, Your Honor, Darren
12 Klein. I read it the same way you do.

13 THE COURT: Okay. All right, very well. Okay,
14 thank you, Mr. Troop.

15 MR. TROOP: Thank you, Your Honor.

16 MR. KLEIN: Your Honor, I may be mistaken, but I
17 think we're down to the pro se objections at the end,
18 starting on No. 26 of our reply chart. I don't know if you
19 want to omnibus call and see if anybody's here or how you
20 want to (indiscernible).

21 THE COURT: Right. I think there may have been at
22 least one of those objectors here. Let me just -- let me
23 turn to the list that I have.

24 MR. KLEIN: It starts on the bottom of 52.

25 THE COURT: Okay. So, the first one, then, would

1 be the objection by Mr. Stimus, S-T-I-M-U-S, Aaron Stimus.
2 If you're on the phone, sir, this is your chance to speak in
3 support of this objection to -- okay. I reviewed this
4 objection and I think it really is a plan objection as
5 opposed to a disclosure statement objection. Basically,
6 asserts that there should be different treatment than the
7 plan provides for as between the people who, I think,
8 frankly, would fall into Mr. Stimus' fact pattern, and he
9 specifically singles out state and federal claimants,
10 government claimants, and claims of people who did not have
11 a legal prescription to OxyContin.

12 The plan, I think, pretty carefully, as dealt with
13 in the mediation, phase one mediation, balanced those types
14 of issues and came out where it came out. I think it
15 explains how it came out and why or at least one could
16 reasonably infer why, so I think it's truly a confirmation
17 objection.

18 The other request is really an information request
19 which is one that, frankly, someone who truly is interested
20 can go and find, based on public dockets, but it's not
21 really something that's germane to the plan, which is, to
22 identify what courts are going to have criminal and/or civil
23 adjudications against Purdue and its employees and others.
24 I don't think -- as I've said earlier in this hearing, I
25 don't think that type of information really is necessary or

1 -- to give someone adequate information to vote on the plan
2 and they have their ability find it on their own.

3 I really covered both the original and the
4 supplement. Supplement just added more detail to those
5 objections. The next one is an objection by Jeanette
6 Tostenson, T-O-S-T-E-N-S-O-N. Are you on the phone, ma'am,
7 or on the screen? Okay. Again, I've read this objection
8 and it is, like the objection by Mr. Stimus, that the -- Ms.
9 Tostenson is unhappy with the plan's estimate of what
10 personal injury claimants would recover, and consequently,
11 the negotiated resolution in the phase one mediation as
12 between the public and private side claimants, and complains
13 that the public side is getting too much money.

14 I think that, again, the explanation of the
15 respective class' treatment is clear. In fact, I think the
16 objection reflects that. And as far as the reasons for the
17 allocation are concerned, I think one can -- one has enough
18 information to evaluate that allocation and object, if one
19 wants to, to the plan and vote against the plan, but as far
20 as the underlying merits are concerned of such an objection,
21 that would be a confirmation issue as well.

22 The next one is Mr. McKenney's, Kevin McKenney,
23 Sr. Are you on the phone, sir? Could you join us if you
24 are? Okay. You are -- no, that's not Mr. McKenney. So,
25 this objection is really in two parts. The first part, I

1 think, may -- well, it may be moot at this point. I think
2 the disclosure statement has made it crystal clear that
3 there is not release or injunction or otherwise any relief
4 from any party under this plan of any potential criminal
5 liability that's an expressly and excluded claim, so I think
6 that is clear in the disclosure statement and in the plan,
7 and therefore, this objection, to the extent it still
8 survives, would be overruled because it's clear and
9 obviously, it probably doesn't because it's moot at this
10 point.

11 And then, Mr. McKenney also asked for legal
12 representation to all parties in the case. This is a civil
13 proceeding. There's no requirement for such legal
14 representation, and there, in fact, is collective
15 representation of all unsecured creditors in the form of a
16 Official Unsecured Creditors Committee, which was appointed
17 by the U.S. Trustee and has been incredibly diligent and
18 active in this case, looking after the interests of all
19 unsecured creditors.

20 In addition, there were -- there's an Ad Hoc
21 Committee of personal injury claimants, which doesn't have
22 official status, but represents a large number of personal
23 injury claimants, which, one can assume, has overlapping
24 interests with unrepresented personal injury claimants, and
25 therefore, that request would be denied.

1 The next objection is by Ralph -- Dr. Ralph Olsen.
2 Mr. Olsen, are you on the phone? All right. Mr. Olsen has
3 two objections to the disclosure statement, but both of them
4 clearly are confirmation objections.

5 The first is that Mr. Olsen would oppose any plan
6 that would provide for any payments under the plan derived
7 by revenue from Purdue in selling more opioid products. At
8 the same time, Mr. Olsen says that his claim should be
9 deemed non-dischargeable and payable in full. Both of those
10 objections are confirmation objections, as I said. I think
11 it also is clear that the first one is in conflict with the
12 second one, which seeks payment in full.

13 And of course, as far as non-dischargeability is
14 concerned, Congress has specifically spelled out what is not
15 dischargeable in a Chapter 11 case, and the basis for
16 asserting non-dischargeability in Mr. Olsen's objection is
17 not among those grounds. I will note that the plan goes to
18 great lengths, as the Debtors have in the bankruptcy case,
19 to set up a corporate governance structure and the continued
20 function of a monitor to try to ensure as much as possible
21 that NewCo will actually set the standard, contrary to past
22 history for this corporation pre-bankruptcy, for the sale of
23 opioid products. But again, all of that is a confirmation
24 issue.

25 The next pro se objection is by Susan Haswell. Is

1 Ms. Haswell on the phone? Okay. Again, this objection
2 essentially states that the Debtor is not entitled to a
3 discharge and should not continue in business. As I noted
4 with respect to the prior two objections, A, that's a
5 confirmation issue, and B, frankly, I don't think that there
6 is a basis to deny a discharge here. And as far as the
7 other issues are concerned, we'll deal with them in
8 confirmation.

9 The next objection is by Scotti -- S-C-O-T-T-I --
10 Madison. Mr. Madison, are you on the phone? No? All
11 right. This is another objection to the allocation as
12 derived from the phase one mediation as between the private
13 side claimants and the public claimants. That's clearly a
14 confirmation issue as well.

15 As I noted, the plan lays out the terms of the --
16 and the disclosure statement, lay out the terms of the
17 allocation, clearly, and I believe one can infer the
18 rationale as well as the fact that they were negotiated
19 heavily at arm's length by informed parties on both sides in
20 the phase one mediation, so I'll overrule that objection.
21 Obviously, all of those issues can be raised at
22 confirmation, if someone wants to raise them.

23 The next pro se objection is by Pat Newmeyer, N-E-
24 W-M-E-Y-E-R. Is the objector on the phone for that? This
25 is an objection similar to Ms. Haswell's, Dr. Olsen's, and

1 Mr. McKenney's in that Mr. Madison, understandably -- I'm
2 sorry, excuse me. Ms. Newmeyer, excuse me, wants the Court
3 to be sensitive and properly listen to and recognize those
4 who have claims, including claims for physical injury and
5 death because of over prescription and over marketing of
6 OxyContin.

7 I don't think there's anyone in this case,
8 certainly not myself, who believes that the whole purpose of
9 this case is to allocate as much money as possible to
10 address the effects of over prescription and improper
11 marketing of OxyContin and other opioid products. Whether
12 the plan does that, sufficiently to be confirmed is, by its
13 very nature, a confirmation issue.

14 Simply stopping the process and wasting that
15 money, accordingly, I believe -- and I believe it's at least
16 an issue that should not prevent consideration of the plan -
17 - is not properly acting in remembrance of those victims.
18 So, I will overrule the objection. Again, the issue could
19 be raised at confirmation.

20 One can, conceivably, take the view that the
21 opioid and Purdue's role in it is so extreme that the value
22 in Purdue's estate and the amount to be contributed by third
23 parties under the plan should be foregone as a memorial, but
24 clearly, one could certainly take the opposite view, that
25 the more of that money that goes to abate the opioid crisis,

1 and as negotiated also to go to individuals who would likely
2 have a claim against Purdue should be given a chance.

3 The next objection is by Maria Luisa Pena, and
4 it's not that clear, but I take it to be an objection,
5 again, to the allocation of funds between individual
6 claimants and the public side claimants or the trusts where
7 money is going to abate the opioid crisis. The plan strikes
8 a careful balance that was heavily negotiated as regards
9 that allocation, and this is not the type of objection that
10 would preclude parties from voting on such a plan. It could
11 be raised at confirmation if Ms. Pena wants to do that.

12 The next objection is by Daniel Jackson -- this is
13 not Peter Jackson. This is not Mr. Lipson's client. This
14 is Daniel Jackson. This disclosure statement objection is,
15 really, quite brief and I don't think actually objects to
16 anything other than saying, I object, so I will over rule
17 it, in that it doesn't actually specify a basis for the
18 objection.

19 The next objection is by Kelvin Singleton? Is Mr.
20 Singleton on the phone? No? Okay. Mr. Singleton's
21 objection really falls into one of the two categories that
22 most of these have fallen into. It is either -- or it can
23 be read either as an objection to the allocation as between
24 personal injury claimants, which I believe Mr. Singleton is
25 asserting he is, and public side claimants, which, of

1 course, for the reasons I've already stated, would be a
2 confirmation objection and not a reason to preclude voting
3 on the plan.

4 The disclosure statement sufficiently describing
5 the allocation as between the two, or, alternatively, it can
6 be viewed as an objection similar to Ms. Newmeyer's, which
7 is, in essence, a request to be heard for the effects that
8 Mr. Singleton has suffered.

9 And again, I believe everyone in this case, and
10 certainly myself, is very aware, having gotten not only
11 objections like this, but numerous letters of that
12 suffering, and have tried as hard as they can to come up
13 with a fair way to address it that is consistent with public
14 health and public policy, so this issue is not a proper
15 disclosure statement issue, either, as I've already noted,
16 although, Mr. Singleton is certainly free to object to the
17 disclosure -- to the confirmation of the plan.

18 The next and next-to-last objection is by Carlos
19 Martinez-Bermudez. I don't know if Mr. Martinez-Bermudez is
20 on the phone. By its face, it appears that Mr. Bermudez has
21 not actually filed a claim in this case. He seeks leave to
22 intervene to do so and have a counsel appointed for him.
23 Again, this isn't really a disclosure statement objection,
24 and I will overrule it.

25 The last one, I believe, is just anonymous, and

1 falls into the category that I've already addressed several
2 times. It is by a person, who I believe, is a personal
3 injury claimant. References a specific claim, but I gather
4 that the creditor did not want his name to be known or her
5 name to be known, and it basically complains about the
6 allocation as between personal injury claimants, I believe,
7 and the public side creditors. And again, for the reasons
8 I've already stated, that's not properly a disclosure
9 statement objection to this disclosure statement, but
10 rather, one that could be raised at confirmation.

11 So, I am not granting any of those objections.

12 MR. KLEIN: Thank you, Your Honor.

13 THE COURT: Mr. Klein, I don't think there were
14 any others.

15 MR. KLEIN: I don't believe so, either.

16 THE COURT: Okay. All right. Now, I appreciate
17 it's 2:35. I don't know if people need a short break. We
18 still need to briefly go through my comments, to the extent
19 that they've not already been raised, and address the
20 solicitation procedures. I'm happy to take a five-minute
21 break or keep going, depending on people's wishes.

22 MR. HUEBNER: Your Honor, so let me jump in for a
23 second, if I may. Number one, I think a true five-minute
24 break of exactly five minutes seems fair to everybody,
25 including Your Honor who does not have the liberty of

1 turning off his video and leaving your chair like most of
2 the other people, I think, do, so I just for human mercy,
3 that sounds perfectly awesome.

4 Number two, I would note that in addition to going
5 through Your Honor's comments, of course, several people are
6 standing by with pen in hand to take them down, I know that
7 Mr. Shore has said he has some remarks that he would make at
8 the end. I believe that Mr. Eckstein on behalf of the AHC
9 and Mr. Preis on behalf of the UCC, likewise, has some brief
10 comments to make on the -- and I have nothing more to say,
11 hopefully, other than we're waiting for the final-final
12 confirmation on the co-defendant Sackler Debtor tripartite
13 language that has been going in the background all day and
14 looks to me like we're a couple of (indiscernible) units
15 away from agreed language, but hopefully, between the five-
16 minute break and the couple of sets of remarks people have
17 to make and the like, then we'll be done and I will have
18 some final-final things at the end (sound drops) next step.

19 So that sound simple as the order (sound drops), I
20 think that --

21 THE COURT: Okay, why don't we come back at
22 quarter of, then. Should -- I'm asking the people in the
23 clerk's office -- should people just keep their link on?
24 So, don't hang up? You can put -- you know, take the camera
25 off, of course, but come back at quarter of. Thank you.

1 (Recess)

2 THE COURT: Okay, we're back on the record in In
3 re: Purdue Pharma, LP, et al. on the disclosure statement
4 hearing. I understood from Mr. Huebner that there are some
5 parties who wish to make a statement, who've also filed
6 either reservations of rights or earlier statements, such as
7 the Ad Hoc Committee of Personal Injury Claimants, but
8 before doing that, let me ask. Is there anyone else who has
9 an objection to the disclosure statement?

10 MR. FISHER: Your Honor, this is Eric Fisher from
11 Binder and Schwartz for the public school creditors. As
12 Your Honor knows, we had an objection and we've reached an
13 agreement, but when it's convenient for the Court, I'd like
14 to just take two minutes of the Court's time to speak to our
15 agreement to withdraw our disclosure statement objections.

16 THE COURT: Okay.

17 MR. KLEIN: Your Honor, it's Darren Klein from
18 Davis Polk. I'm sorry. I just wanted to bring to your
19 attention that there was one late filed objection that
20 didn't make our summary chart because of timing, that I was
21 just made aware of, and I didn't want the Court to not know
22 it was there. It is Docket 2921. It's a pro se objection.

23 THE COURT: All right. Well, who is the objector?

24 MR. KLEIN: Carrie McGaha, M-C-G-A-H-A.

25 THE COURT: Okay. Is that person on the phone?

1 All right. I -- my order setting out a timetable for
2 objections to the disclosure statement did provide an escape
3 hatch for those who were objecting to portions of the
4 disclosure statement that were new from the date that I
5 originally set as the deadline to object, and that was that
6 I would hear it at the hearing. I don't know whether Ms.
7 McGaha's objection is to a new portion, but in any event, I
8 said I would hear it at the hearing, but that requires the
9 participation of the objected at the hearing, so I'm not
10 able to hear it. Sorry. So, I won't entertain it at this
11 point.

12 MR. HUEBNER: Your Honor, Marshall Huebner for the
13 Debtors. One other thing that I learned during the break,
14 which is Mr. Larry Fogelman who, obviously, as
15 (indiscernible) is the head of the Bankruptcy and Tax
16 Division of the Department -- of the S.D.N.Y. would like to
17 make come clarifying comments. They actually got more
18 things wrong than they feared, but the (sound drops)
19 telephone (indiscernible) like to correct exactly where they
20 are in their approval process of the various deals that I
21 described, which are all their wheel, and so, because that's
22 a more focused comment and not general reflection, might
23 make sense to do that first before we turn it over to Mr.
24 Eckstein and Mr. Preis and Mr. Fisher as well for their
25 reflections.

1 THE COURT: Okay. So, Mr. Fisher, we'll put you
2 aside for just a moment, figuratively speaking, and I'll
3 hear from Mr. Fogelman.

4 MR. FOGELMAN: Thank you, Your Honor. Can you
5 hear me?

6 THE COURT: Yes, I can hear you fine.

7 MR. FOGELMAN: Good afternoon. This is Larry
8 Fogelman from the U.S. Attorney's Office for the Southern
9 District of New York on behalf of the United States. We
10 want to echo the Debtors' comments from this morning that
11 substantial progress has been made regarding the resolution
12 of the claims of the United States in this case, and we
13 appreciate the Debtors' involvement in helping to negotiate
14 certain aspects of proposed resolutions.

15 However, we can't say, at this point, that we are
16 resolved, which is the term Debtors used earlier this
17 morning, as we are still continuing to discuss the relevant
18 language relating to our claims with our agencies and other
19 stakeholders, and once we have finalized language, we will
20 need to secure formal approval from DOJ. We are optimistic
21 that we will reach closure on these issues and we are
22 working hard to do so, but at this point, we just wanted to
23 note for the record that these issues are not "resolved."
24 Thank you, Your Honor.

25 THE COURT: Okay, thank you. All right. Mr.

1 Fisher.

2 MR. FISHER: Thank you, Your Honor. Eric Fisher
3 from Binder and Schwartz on behalf of the public school
4 district creditors, and I'm mindful of the fact that one of
5 the chief benefits of our decision to withdraw our
6 disclosure statement objections is that you really don't
7 need to hear that much from me today, so I'll be very brief.

8 We wanted to express, first, our gratitude to the
9 Debtors and also to the Creditors Committee. It's really
10 only because they were willing to have a continuing focus on
11 our issue that I think we're now on a path that we hope will
12 be a promising path towards resolving our issues.

13 We recognize that this is a very complicated
14 bankruptcy proceeding with many different facets to it, but
15 we also appreciate that it is really driven by an over
16 arching public interest concern, which is the concern to
17 create as large a pool of funding for impactful abatement
18 programming as possible, and we think that this mediation
19 that the Debtors, the Creditors Committee, and the MSGE have
20 agreed to participate in under the auspices of Mr. Feinberg
21 presents a really important opportunity to address an area
22 of abatement that, to date, has gone completely unaddressed
23 and those are, special education needs and other educational
24 supports and interventions at public schools directed
25 towards the welfare of public school children affected by

1 the opioid crisis.

2 At the same time as we're optimistic about this
3 mediation path, we are actively and quickly, to keep
4 everything running on time, prosecuting potential
5 confirmation objections by which, I mean we already have
6 issued discovery requests and deposition notices that would
7 help us advance our confirmation objections if we're not
8 able to reach resolution, but we're grateful for the chance
9 to have sort of come into the tent and have an opportunity
10 to have a really meaningful conversation about trying to
11 resolve our issues consensually and it's on that basis that
12 we agreed to withdraw all of our disclosure statement
13 objections and reserve all of our rights with respect to
14 confirmation.

15 THE COURT: Okay. All right, thank you.

16 MR. FISHER: Thank you, Your Honor.

17 THE COURT: Obviously, I'm glad Mr. Feinberg was
18 able to step in and we didn't have to impinge on Judge
19 Chapman. Okay. Mr. Eckstein, you wanted to address the
20 Court?

21 MR. ECKSTEIN: Your Honor, good afternoon.
22 Kenneth Eckstein of Kramer Levin, co-counsel for the Ad Hoc
23 Committee of Governmental claimants in the case. I would
24 like to make a few brief remarks, given the significance of
25 today's hearing, if that's okay with Your Honor. Your

1 Honor, I know that you fully appreciate that the Ad Hoc
2 Committee is a committee that has been actively involved in
3 the case, consisting of states, local governments, and
4 tribes, and from the time that the Committee organized in
5 the fall of, I guess, 2019, our focus has been on trying to
6 help move this case to a point where we could ultimately put
7 in place not only a global settlement, but a settlement that
8 would be focused on providing abatement for the benefit of
9 the citizens of all states and the local governments of the
10 country.

11 And today's hearing is a crucial step in achieving
12 the goals that underscored our purposes from the outset.
13 That said, today (sound drops) important step, but it's
14 certainly far from a conclusion. It goes without saying, as
15 Mr. Huebner described at the outset of today's hearing, that
16 this has required working quite intensively with many, many
17 parties, including the Debtor, the UCC, the MSGE Group, the
18 various groups representing the different private creditor
19 entities, as well as the Sacklers, and these interactions
20 have been, on the one hand, collaborative and on the other
21 hand, (indiscernible) and remain quite intense through, as
22 you heard Mr. Huebner describe, the various nights leading
23 up to this morning's hearing.

24 And there is work to be done and there are several
25 important issues that are advanced but are not yet complete,

1 and as Mr. Fogelman said, it does mean that there's still
2 work to be done and we do intend to continue working quite
3 hard over the next several days to ensure that the remaining
4 issues with both the Sacklers on the one hand and with the
5 private creditors and the governmental entities on the other
6 can be finalized in advance of the order being submitted to
7 Your Honor for approval of the disclosure statement.

8 That said, the Ad Hoc Committee has been very
9 supportive of going forward today. We believe that this is
10 a critical step moving forward and we agree with the
11 sentiment that it's important to make progress in moving
12 this case to a conclusion, and that there will be ample
13 opportunities to deal with disputes if we are unable to
14 resolve those disputes between now and confirmation.

15 I think, as Your Honor appreciates, this is a
16 uniquely complicated case. I look at this case as at least
17 a five-dimensional plan process. We've had to deal with a
18 reorganization of a pharma company, which, in and of itself,
19 makes most Chapter 11 cases complicated. We have been
20 dealing with extremely complicated litigation against a
21 third party and have tried to embody a difficult and
22 complicated settlement with the Sackler family, both the B
23 side and the A side, which is finally embedded in terms
24 sheets.

25 There has been resolution among public creditors

1 and that involves the states, the local governments, and the
2 tribes, which preceded phase one of the mediation, was a
3 critical foundation to be able to even get to a plan. There
4 was the negotiation between the public creditors and the
5 various private constituencies, also highly complex and
6 could make for a case in and of itself, and all of the
7 intercreditor issue that run through all of these different
8 settlements have been embodied in the plan of
9 reorganization.

10 So, it hopefully comes as no surprise to Your
11 Honor and -- or all the parties involved in this case, when
12 you hear repeatedly from Mr. Huebner how hard everybody
13 (sound drops) how complicated the base is. I want to
14 underscore, it really is the case, and the fact that we've
15 gotten the case to this point is, I think, a testament to
16 the hard work and the creativity that all parties have
17 shown, but we are supportive of the Court ultimately
18 entering the order that approves the disclosure statement.

19 We think that there is a great deal of disclosure
20 and there's ample information upon which all parties in this
21 case should be able to cast their ballots. It goes without
22 saying that this plan involves extensive compromises. Every
23 single aspect of this case has had to be negotiated and
24 every party has had to give a great deal off of where they
25 ideally wanted to be in order to get to a fragile balance,

1 and it is fragile, Your Honor. I want to underscore that in
2 every respect.

3 Nonetheless, it is a tremendous accomplishment and
4 it is an opportunity to do something that is very unique in
5 the context of both bankruptcy and mass tort litigation,
6 which is to achieve a kind of resolution and closure that
7 will provide a unique benefit for the public at large, which
8 is something that is not often accomplished through a
9 bankruptcy. So, we're hoping that we can, ultimately, use
10 today as a launching pad to move to confirmation over the
11 next, really, two to three months, and we think that this
12 disclosure statement (sound drops) that basis.

13 I was going to, Your Honor, speak to the issues
14 that have been raised by both the school districts and by
15 West Virginia in their objections. I appreciate the fact
16 that both the school and West Virginia have agreed to
17 withdraw their objections to the disclosure statement, and
18 do appreciate that both cases, those issues have been
19 reserved for confirmation.

20 We did submit a reply to the objections and I
21 trust Your Honor had an opportunity to see it, and I don't
22 need to belabor that, other than to say that these are both
23 examples of, while there may not be complete agreement on
24 these issues, there is tremendous respect for the concerns
25 raised by the schools and every effort is being made to

1 ensure that the interests of the school districts and of
2 education and how education is implicated by the opioid
3 crisis is being addressed through the abatement (sound
4 drops) that are already embedded in the plan, and we will
5 continue to dialog with the schools and hopefully the
6 mediation can help address and resolve whatever remains
7 open.

8 Similarly, with West Virginia, the states are
9 extremely sensitive to the interests and the concerns of
10 West Virginia and any other similarly situated state and
11 local government about their share and participation in the
12 abatement proceeds and hopefully, we can continue to dialog
13 with all these constituencies, but every effort that we made
14 to try to be mindful of these issues and putting in place
15 the allocation, which, again, was one many compromises.

16 So, with that, Your Honor, I just want to
17 underscore the fact that the Ad Hoc Committee supports the
18 approval of the disclosure statement, but does reserve the
19 opportunity to continue to discuss with the UCC, the private
20 creditors, and the Sacklers, and the Debtor the few
21 remaining but important issues that need to be buttoned up.
22 We're hopeful that it's not going to necessitate any further
23 hearing, but to the extent that any further modifications
24 are made, I'm sure they'll be reflected in documents that
25 are filed with the Court prior to approval.

1 So, I thank Your Honor for your time today and for
2 this important hearing. And my last observation, Your Honor,
3 is I know a lot of things have been referred to
4 confirmation, and we intend to work with the Debtor and the
5 other parties, and if appropriate, I may be asking guidance
6 from the Court to make sure that the evidence that is going
7 to be prepared and submitted to the Court in advance of
8 confirmation is responsive to what the Court is expecting to
9 see, and whether that, with allocation or attorneys' fees,
10 or any of the other aspects of the settlement that are
11 embedded in the plan, we're going to focus ourselves on
12 making sure that the evidence at confirmation be responsive.

13 THE COURT: Okay. Thank you.

14 MR. ECKSTEIN: Thank you.

15 THE COURT: Mr. Preis, I see you on the screen.
16 Did you want to say something?

17 MR. PREIS: I did, Your Honor, but I wasn't sure
18 if it was my turn or Mr. Shore's turn, because I know he had
19 said that he had some things he wanted to say.

20 THE COURT: Okay. Well, Mr. Shore, you can go
21 ahead, too.

22 MR. SHORE: Sure. However Your Honor wants. I'm
23 going to keep my comments brief. Chris Shore from White &
24 Case on behalf of the Ad Hoc Group of Personal Injury
25 Claimants. As Your Honor may have noticed, we've been very

1 quiet in the courtroom in these cases. That said, the
2 group's advisors, the real bankruptcy and personal injury
3 lawyers, have been very active outside the courtroom,
4 literally spending tens of thousands of hours on this
5 project, including negotiating the splits with the other
6 prepetition unsecured creditors, starting last summer,
7 negotiating the plan terms reflecting those deals in all of
8 the iterations and in all of the amendments, assisting in
9 the drafting of the PI TDP and associated trust documents,
10 providing disclosure.

11 Just this past month, the team has had to deal
12 with the Debtors and other creditor constituencies day and
13 night, closing out the lien resolution procedures, I'll
14 note, as Mr. Fogelman just said, the deal is not quite done
15 on both sides. Language has been sent and both sides are
16 seeing if we can't get there. We're hopeful we will be able
17 to.

18 We've been working on assisting the -- and
19 drafting the opt out procedures, and it sounds like we're
20 going to have to have a discussion with the Debtors after
21 this hearing about modifications with respect to separating
22 out the opt out concept from the documentation concept.
23 We've been addressing the common benefit fund. I don't
24 think Mr. Huebner got it quite right about how it works.
25 It's actually addressed well in the disclosure statement s

1 to how the amounts are calculated.

2 And, of course, we spent significant time dealing
3 with the NAS group and their objections, and ultimately,
4 creating a separate NAS TDP and making sure that all works
5 throughout all the plan documentation.

6 As to the disclosure statement, we did fill a
7 limited response to make our views part of the record at
8 this stage, and to make clear to the Court both the
9 challenges to and the ongoing processes for addressing the
10 treatment of prepetition claims for personal injuries
11 related to opioid use.

12 Simply, we just didn't think it was right to let
13 accusations that the public private split is so bad that it
14 renders the plan unconfirmable or that the TDP was drafted
15 in bad faith to benefit some rather than others. We just
16 didn't think those should sit out there for months without a
17 response.

18 The fact is, that given the emotional, legal, and
19 economic issues involved, and given that no amount of money
20 might every fully compensate a personal -- a prepetition
21 personal injury creditors, we're likely never to get to a
22 universal consensus, either between all the various creditor
23 groups or even within the personal injury community.
24 Limited funds and zero-sum games just don't work out that
25 way.

1 That said, we'll continue to try and do believe
2 (sound drops) can result in consensual or nonconsensual
3 amendments to the plan that can allow closure that don't
4 raise re-solicitation issues.

5 I do want to respond to Mr. Huebner's opening
6 comments on what he called couple of blanks in the plan and
7 that Mr. Eckstein just referred to, especially in light of
8 Mr. Huebner's speak now or forever hold your peace
9 statement. The plan filed this morning reflects a change to
10 some key definitional terms that were first raised on a
11 Sunday night iteration of the plan. Those changes are, we
12 understand and ask from the Debtors and maybe the Sacklers
13 and others to have the PI creditors agree to let in new
14 classes of plaintiffs into the PI trust.

15 And the (sound drops) could, modify who can and,
16 indeed, must look to the PI TDP and the NAS TDP for
17 recoveries. We don't fault the Debtors for using the plan
18 on the docket as a means to drive negotiations or make asks.
19 It does put a lot of pressure on the Court and the parties
20 to focus on the blacklines. As we saw this morning, the
21 addition of two-word or three-work phrase like "or other
22 persons" to modify releasing parties, can be a material
23 change, even though the blackline is tiny.

24 To be clear, with respect to the proposed changes
25 to the plan and in the last iteration, the Ad Hoc Group is

1 not there. We've not accepted the changes. We might not
2 ever get there. It leads to an objection, so be it. That's
3 a confirmation issue.

4 I don't think it's productive to air out this
5 issue on the record, much less negotiate on the record.
6 We're going to continue to talk. I understand we're going
7 to talk this afternoon about it to see if we can't solve
8 another issue. The only concern, and the one I wanted to
9 put on the record, is that if we don't solve it before
10 solicitation, we all may, as a practical matter, be putting
11 a materiality limitation on the options available for
12 resolution.

13 There's no specific disclosure about who beyond
14 prepetition holders of personal injury claims has a right to
15 look at the PI trusts. If we don't fix this problem now,
16 before solicitation, we may not be able to fix it without
17 reason.

18 THE COURT: Okay. Thank you.

19 MR. SHORE: Welcome.

20 MR. HUEBNER: Your Honor --

21 MR. BICKFORD: Your Honor --

22 MR. HUEBNER: Mr. Bickford, give me one second, if
23 you would, just --

24 MR. BICKFORD: Sure.

25 MR. HUEBNER: I was going to say two additional

1 things. Number one, Mr. Bickford had emailed
2 (indiscernible) and asked to also make some remarks, so I'll
3 turn the podium over to him in a second before Mr. Preis.
4 With respect to Mr. Shore, appreciate, frankly, everything
5 about the presentation. For the avoidance of doubt, I was
6 actually clear that the blanks and brackets refer to various
7 things in the Sackler terms sheets.

8 There are several different things that need to be
9 buttoned up before we're going to be willing to send in the
10 order for, hopefully, entry, obviously (indiscernible)
11 that's what Mr. Shore referred to which does need to be
12 resolved and we can be sure that the second (indiscernible)
13 win on this hearing.

14 The parties, PIs are prepared, AHC and UCC will be
15 diving right back in to hopefully get that swatted away as
16 well as hopefully for the (indiscernible) legal fees, so I
17 just want Mr. Shore to take comfort that I don't think the
18 issue was minimized. I think it is one that needs to be
19 addressed and we're going to do so.

20 So, with that, let me turn the virtual podium over
21 to Mr. Bickford, then Mr. Preis, assuming we have no other
22 comments, I will address next steps in the process.

23 THE COURT: Okay.

24 MR. HUEBNER: -- comment, of course.

25 MR. BICKFORD: Thank you, Mr. Huebner. Your

1 Honor, good afternoon. Scott Bickford and Harold Israel on
2 behalf of the NAS Children's Ad Hoc, and I will be brief.
3 As the Debtors stated, the NAS Ad Hoc has withdrawn its
4 objections to the disclosure statement, reserving rights.
5 In light of that, we must thank Ken Feinberg, the PI
6 representatives, as well as the Debtors, all of whom, as Mr.
7 Huebner has noted, worked around the clock in a very short
8 period of time to resolve most of the issues related to NAS
9 children.

10 As a result of their efforts, the issues raised in
11 our objection have largely been resolved. The NAS children
12 now have their own subclass, a separate allocation of funds,
13 as well as a separate TDP which seeks to compensate all of
14 those children, and I repeat, all of those children who've
15 filed proof of claims in these bankruptcy cases. We
16 remembered Your Honor's admonition of not letting the
17 perfect get in the way of the good. This is a compromise,
18 and like all good compromises, I don't think either side is
19 completely satisfied.

20 Like all families, the attorneys representing the
21 NAS children don't always speak in one voice nor on every
22 single detail. There are a few key details that still
23 remain to be addressed. The most pressing issue, however,
24 is how to ensure that new funds get to the children now,
25 with the least amount of expenses and impediments. As Your

1 Honor may know, multiple states have laws governing minors'
2 settlements in any amounts, some compelling the funds be
3 deposited until a child is 18, others have more liberal
4 provisions.

5 Federal courts and federal bankruptcy courts have
6 faced these issues before, notable in a matter I was
7 personally involved in, the Deepwater Horizon and the
8 (indiscernible). In search of a solution to facilitate a
9 faster distribution, we're working with the Debtors to
10 determine if we can request this Court to invoke its
11 jurisdiction to affirm minors' settlements, eliminating the
12 need to go state by state and incur the attendant costs
13 prior to making distributions to minors.

14 In the event that's not possible, there's also
15 discussion on how to -- on how these costs will be borne,
16 but the goal is not to burden the recovery of these children
17 with excessive costs for delays and whether that involves an
18 award of imposition of additional costs, administrative --
19 or administrative processing costs. While there are
20 outstanding issues, we are working to resolve those that --
21 between now and the plan confirmation.

22 Again, we thank the Court for its indulgence, and
23 I'm happy to answer any questions the Court may have.
24 Otherwise, thank you, Your Honor, for your time and
25 indulgences today.

1 THE COURT: Okay. Thank you.

2 MR. PREIS: Okay, all right. Your Honor -- can
3 you hear me?

4 THE COURT: Yes. And see you.

5 MR. PREIS: Okay. Good afternoon, for the record,
6 Arik Preis (sound drops) for the Debtors. Your Honor, we
7 filed a very brief statement on Monday afternoon after the
8 last iteration of the plan disclosure form, it's at docket
9 number 2944. I'd like to make four points. First, I just
10 wanted to level set about what we're doing at this hearing
11 and what we're not doing. Second, to address the UCC's firm
12 position of the plan and the proposed settlement this (sound
13 drops). Third, to address the adequacy of the disclosure
14 statement, and then four -- last to address how important it
15 is from the UCC's perspective that the case move forward and
16 the parties in the case focus on achieving resolution,
17 similar to what Mr. Eckstein said.

18 But first, just to level set where we are, as Mr.
19 Huebner pointed out, that now it's 13 hours ago, the
20 advisors to the debtors, the agency, and the UCC agree that
21 even though we weren't done yet with everything, it still
22 made sense to go forward today, given the number of open
23 issues. So, it's not quite a hearing to approve a final and
24 filed disclosure statement, because things aren't done yet.
25 So, as I'm going to explain, the current iteration of the

1 plan of disclosure statement does (indiscernible) on file
2 are not done, and they're not in the position that we can
3 support yet.

4 Second, I'd like to address the UCC's current
5 position on the plan, and the proposed act to settle a
6 specific issue. As we stated in the brief statement we made
7 on Monday, at the time of that filing, we were not in a
8 position yet to support the plan. There were still open
9 issues. Since then, many of them have been resolved. And I
10 can -- as Mr. Huebner went through, we are almost there on
11 most things, but there's still some issues left. From the
12 UCC's perspective, I can tell you there are basically five.
13 A few of them are the things that Mr. Shore were pointing
14 out on his future (indiscernible phrase) is what I'll call
15 the fact that treatment of the any other person channel
16 from.

17 Third is the scope of the debtor reliefs. Four
18 are the attorney fee issues, and fifth are the document
19 repository issues, which -- as we have conceded, at the
20 understanding it will get resolved, a clean solicitation and
21 confirmation. As a result, at the moment, we're not in a
22 position to support either the plan or the proposed
23 settlement, and we will continue to start working on those
24 issues in the next few days, and we believe that we will be
25 able to get the resolution.

1 Third, I want to address the adequacy of the
2 disclosure statement. Putting aside the fact that we don't
3 support the claim in its current form, the issue today is,
4 as you've pointed out, on the adequacy of the disclosure
5 statement. Of course, as a threshold matter, the disclosure
6 statement must include as per described a confirmable plan.
7 And until the plan negotiations end, and as Mr. Huebner
8 pointed out, the biggest part of the plan, right, is the
9 Sackler contribution. And that is not completely done yet,
10 even for solicitation purposes, those -- because those
11 provisions are not agreed, the disclosure statement doesn't
12 really describe yet the confirmable plan. Strictly
13 speaking, even for solicitations (indiscernible), the
14 negotiations are not (sound drops). But putting that issue
15 aside, because we do believe that will happen in the next
16 couple of days, the question is whether the 400-page
17 disclosure statement contains information required for the
18 bankruptcy.

19 To be clear, we do believe the disclosure
20 statement is comprehensive, and that Davis Polk and the
21 debtors have done a very, very nice job, and we are grateful
22 for all the changes that parties have made to it, and the
23 debtors in being accommodating. But from our perspective,
24 these cases are unique in that inclusion in a debtor's
25 solicitation materials of our positional (sound drops). And

1 the reasons for our position are in and of themselves
2 necessary for the disclosure statement and the solicitation
3 materials made 11/25.

4 We feel this way not just because of the very
5 active role we've played, but for two very specific reasons.
6 First, as Your Honor pointed out, the discovery taken in
7 connection with this -- with our investigation of the estate
8 causes of action. Mr. Sackler has been as expansive as any
9 case Your Honor has been a part of. And as everyone is
10 aware, we are the party that served most of the discovery,
11 or the party that took most of the discovery, or the party
12 that provided our analysis of the potential plans and causes
13 of action to various parties in the case during mediation,
14 and we then utilized that work and per -- that we performed
15 in negotiating the Sackler penalty. We feel it's important
16 for the creditors in the case, and indeed frankly in their
17 public, to understand what exactly we did, what we analyzed,
18 why we came to the conclusion we did, whatever that
19 conclusion may be. And for whatever reasons we reached
20 them. Some people may think this means we're lauding the
21 work we did or belittling the work that others did, that's
22 100 percent not true.

23 And quite frankly, irrelevant and wrong. What
24 causes it and we recognize in our (sound drops) are the
25 efforts of the debtor and the non-consenting state in the

1 discovery packet. However, it means we believe that all
2 creditors, when they go to (indiscernible) an appointment,
3 deserve the right to know what they pay for. And what our
4 conclusions were and why. Second, I'd also point out that
5 the creditor constituency of these cases is overwhelmingly
6 made up of contingent, unliquidated opioid Plaintiffs, most
7 of whom are (sound drops) or (sound drops) who did not have
8 their own bankruptcy counsel.

9 And we have therefore received hundreds of
10 inquiries about the case, and those inquiries have picked up
11 since the plan was filed. We have fielded questions that
12 deserve answers, like what's our position on the pharma
13 plant? Why was the settlement entered into? Why is the
14 allocation okay? And these are not easy to explain. We
15 therefore believe it's fair and appropriate for all 620,000
16 Plaintiffs who are voting on the plan to receive the same
17 information and views prior to the time they vote.

18 And it's not a surprise that many of the inquiry
19 (indiscernible) some of the letters that were filed on the
20 docket include the underlying ethos that the Claimant
21 doesn't trust Purdue, given their deal -- their historical
22 interactions with them. And as such, they want to hear from
23 the independent creditor fiduciary. This isn't mean --
24 meant to derogate from, disparage, say anything about the
25 negative -- anything negative about the efforts of the

1 debtors, Davis Polk for this case. Something that uphold us
2 many times, and I don't think it comes as a surprise to
3 anybody who's listening.

4 As a result, and rather than including the
5 disclosure statement and various inserts that they get lost
6 in a 400 to 500-page document, we've been working on a
7 letter that will be included (sound drops). We have
8 discussed that letter with the debtors, and they have
9 provided focused, professionally and carefully some
10 suggestions or comments. We're still working on it, and
11 when the plan negotiations end, we will be in a position to
12 finalize, and as the debtor's disclosure statement stated,
13 they intend on including the letter in the solicitation
14 packet.

15 With that, I move to my last point, which is the
16 case must move forward. I know many people have said this
17 in the past, but as these cases now move into their close to
18 20th month, the time has come for the parties to stop
19 fighting about every little point, pick the points that are
20 most critical to them, and negotiate. And here I'm
21 referring both to the unresolved plan issues with Sackler
22 settlement, as well as the upcoming mediation. In addition,
23 we believe the time has come for all the parties in the case
24 to stop engaging in, and being motivated by (indiscernible)
25 emotions.

1 If a party's to stop catering to their perception
2 of what the American public wants to hear, rather than what
3 this Court will require to consider the plan, and for the
4 parties to put aside their differences and do the right
5 thing. We're hopeful that the mediation with the NCSG and
6 the Sacklers will lead to some resolution with as many non-
7 consenting states as possible. But we also hope that the
8 main negotiating parties in that mediation will focus on
9 mediation. And by this, I'm referring not just to the AGs,
10 but I'm referring to the Sacklers themselves, who apparently
11 and quite frustratingly, while we've been negotiating with
12 them (sound drops), took it upon themselves to set up an
13 internet site entitled JudgeYourself.com --
14 JudgeForYourself.com, in which they try to tell their side
15 of the story.

16 As we stated at the beginning of these cases, the
17 members of the UCC, many of whom are victim advocates,
18 agreed to stop advocating publicly for the last 20 months,
19 have been under a gag order. We strongly urge everyone else
20 to do the same. And quite honestly, we could not believe
21 that the Sacklers would put out such a site in the middle of
22 our negotiations with them.

23 Finally, we are hopeful that another constituent
24 (sound drops) will be able to resolve their potential
25 confirmation objective, because we believe their issues are

1 resolvable, and frankly not for a large sum of money. With
2 that, Your Honor, I just want to reiterate my initial point.
3 Neither the plan, nor the disclosure statement, is in a
4 position we can support yet, but we do believe that within
5 the next couple of days at most they will be, and that we
6 hope these issues will be resolved prior to (indiscernible),
7 so that the case can go forward. Thank you, Your Honor.

8 THE COURT: Okay, thank you.

9 MAN 1: I'm sorry, Your Honor, the -- whatever
10 your pleasure is, I think --

11 THE COURT: No, I just want to ask if someone else
12 has something to say before I go back to the debtors.

13 MAN 1: Sure. Yup.

14 MR. JOSEPH: Your Honor, Gregory Joseph for the
15 Raymond Sackler family. Over the last three years, there
16 have been approximately 400,000 tweets about the Sackler
17 family based on a public narrative that is false. We took
18 to heart the Court's statement that it's necessary to hear
19 the merits of the case, and we put on -- in our submission a
20 website that I -- that has a presentation for several hours
21 going through the evidence, all publicly available. We also
22 put out a shorter website which summarizes public
23 information.

24 The family has been vilified for the last three
25 years. It's got public information only. Everybody else

1 attacks the family in these proceedings and doesn't want any
2 response, and that's the reason why a public website was
3 made. It was not -- it has nothing to do with these
4 proceedings, Your Honor, but the family does have to live in
5 the world, and it does -- it is the subject, as Your Honor's
6 seen in the briefing, to not only anti-Semitic threats, but
7 to other threats and it's necessary that it be allowed to
8 respond, and that's all that we have done. I only wanted to
9 respond to Mr. Preis, Your Honor, I have nothing else.

10 THE COURT: Okay.

11 MR. JOSEPH: But I will respond to any questions
12 you may have.

13 THE COURT: Okay, thank you.

14 MS. MONAGHAN: Your Honor, this is Maura Monaghan
15 from Debevoise & Plimpton on behalf of the Mortimer Sackler
16 family, and I just wanted to clarify that when Mr. Joseph
17 was speaking and Mr. Preis was referring to this website,
18 those are Raymond Sackler family issues, the Mortimer
19 Sackler side of the family have not joined that website.

20 THE COURT: Okay, thank you. All right. Does
21 anyone else, before we get back to the debtor's counsel,
22 have anything to say? No. Okay.

23 MAN 2: Can I say something?

24 THE COURT: Well, let me just -- I appreciate all
25 of those remarks. One thing that is quite clear to me is

1 that there are very serious, substantive people working on
2 these cases in good faith. And I think they do appreciate
3 the importance of moving ahead in them while they try to
4 resolve the remaining open issues. I, early in this case,
5 discouraged in essence the filing of pleadings and other
6 public statements that didn't go specifically to the issues
7 right before the Court, because I felt it would distract the
8 efforts of those serious and substantive people from
9 resolving the very complex issues that these cases present.

10 I have not reviewed, and I will not review the
11 website that was referred to. I could ask the debtors to
12 state their views in the disclosure statement on the third-
13 party claims as well as the estate claims, and they've done
14 so. I would rather make less of that disclosure than more
15 of it, that is the website disclosure, and take Mr. Preis up
16 on his very well-stated suggestion that now really is the
17 time for the parties to do their best to bring these cases
18 to a conclusion, if they can. The lawyers here and the
19 professionals they're working with, and frankly their
20 clients, all have the skills to do that, and I think
21 ultimately they will do that.

22 And this isn't the time for anyone, really, to do
23 anything other than look at the remaining issues in a clear-
24 headed, practical, and non-inflammatory way. Ultimately,
25 they owe that to their clients, and if they're public

1 servants, to the people that they represent. Some -- at
2 some point, and I think the point is now, people need to
3 show leadership, and not anything less than that. And that
4 goes not only for the creditors in this case, but also the
5 Sacklers. So, Mr. Huebner, my approach for the rest of this
6 hearing would be to focus on my now rather small number of
7 comments on the plan and disclosure statement, and then turn
8 to the solicitation procedures order.

9 MR. HUEBNER: Yup. Yup. My only question is,
10 probably before you move to that last issue, could I have 90
11 seconds, and it would not be more than that, to reflect on
12 the comments that were just made by various parties? I
13 think it probably would be helpful.

14 THE COURT: Okay.

15 MR. HUEBNER: I have another -- and I have another
16 great news update.

17 THE COURT: Okay.

18 MR. HUEBNER: Okay, so number one, as
19 prognosticated, the co-defendant Sackler debtor
20 (indiscernible) type issue is resolved. There was an
21 (indiscernible) going back and forth until about 17 minutes
22 ago, and it is now agreed and acceptable, and so then we
23 (indiscernible) file -- we indexed the open file and then
24 updated when -- which will be in there and it is good to go.

25 Number two, and I actually thank -- I thank

1 everyone for their comments so far, with respect to Mr.
2 Preis' five issues, just to put them in context for about
3 five seconds, the document with public story which, as the
4 Court may not remember, way back in October 2019 was
5 actually originated by the debtors at the very first
6 injunction hearing. Everyone agrees that we're going to be
7 (indiscernible) that quite seriously, I think Mr. Troop
8 referenced a footnote and clarification from Mr. Klein, and
9 so that is a post-disclosure statement issue.

10 And it will be addressed as soon as we get past
11 this intense week or so, and we will all be back to that and
12 try to work it out. So, that's one of those
13 (indiscernible). Number two with attorney's fees which we
14 already discussed, we have I believe (indiscernible phrase)
15 group one, between a bunch of parties, AHC, etc. And so, I
16 am confident that we will be ready to follow that, and if
17 it's not enough, we (indiscernible phrase), that will be
18 good.

19 With the debtor release, I actually think was
20 resolved, 'cause of -- it was in (indiscernible) around 2:00
21 in the morning, then with respect to who the debtors
22 (indiscernible phrase) be clear, because that is certainly
23 not (indiscernible phrase) your right, it's the
24 (indiscernible phrase).

25 THE COURT: Mr. Huebner, you have to speak a

1 little slower. I think the Court Reporter may have a hard
2 time following you.

3 MR. HUEBNER: Sure, I'm sorry, Your Honor. The --
4 is this also a little bit more clear?

5 THE COURT: Yes.

6 MR. HUEBNER: Okay. The debtor release issue, I
7 actually think was resolved in principal, and maybe that
8 there's just language, some moving around, but for the
9 avoidance of doubt, the post-emergence vehicles certainly
10 are not going to be preserving claims and causes of action
11 against individuals, to the extent that we do business with
12 entities and companies and their cross-claims and defenses
13 and things like that, I think everyone has agreed that
14 that's the conceptual approach, so I think we all figured
15 that out. That's three of five.

16 Four of five is the releases in favor of the
17 Sacklers by, "any other person", which we discussed earlier
18 today, people who may not be holders of claims for interests
19 against the debtors, which I believe is a null set, but
20 we're putting in further language in the disclosure
21 statement, I think we've already put that one to bed. And
22 then futures, as Mr. Shore and Mr. Eckstein and Mr. Preis
23 and Mr. Huebner all noted, as soon as the bell rings on this
24 hearing, that's our (indiscernible) for one job, and we'll
25 get that done.

1 Hopefully, and this -- if not then we'll have to
2 figure out the way forward and be back before you, but we'll
3 discuss that at the very, very end. With respect to Mr.
4 Preis' letter, which I did not know was going to be the
5 subject of a conversation today, it is not atypical for the
6 UCC to have a support letter go out with the plan, they are
7 the other statutorily appointed fiduciary, and obviously,
8 are designed to be quite representative and appointed by the
9 Department of Justice. Those letters, as this Court
10 probably knows much better than I do, are normally two or
11 three pages, not 30 pages. Or, I don't remember the exact
12 length, but it's about 30. I am not expressing a view -- I
13 didn't know if this was going to be discussed at all today,
14 on whether or not 1125 in this case requires a separate
15 letter from the UCC. If I had to form a view, I would guess
16 that it's probably definitively not my view, but we're
17 totally fine with them putting in the letter, we think that
18 a lot of what Mr. Preis said about the work they did and
19 that they were in many ways viewed as the primary
20 protagonist with no prior ties of any kind to the Sacklers,
21 and a constituency that nobody could possibly allege is not
22 poised fiercely opposite to Sacklers, is a very good thing.

23 We keep commenting on the letter, in part to
24 ensure that it is as helpful as possible, and I'm sure that
25 we will get to something, but at the end of the day it will

1 go before the Court like other disclosure materials go
2 before the Court, and we'll figure it out from there. But
3 on the whole, there's probably a 84.3 percent overlap
4 between Mr. Preis' view and explanation of the importance
5 and need for his letter and our view, although again, we
6 don't agree with everything in the letter to be sure, and
7 our disclosure statement will allude to that, and I don't
8 want their views to be ascribed to us, just like vice versa,
9 and the letter -- and I appreciate Mr. Preis' kind comments
10 about the professional, cordial, but intense nature of
11 interactions.

12 It continues to move closer to something or other
13 parties obviously may have their own views. So, we are in a
14 very good place. I do want the Court, hopefully to end
15 where I think we started, which is we resolved a
16 breathtaking number of issues between last week and this
17 week, far more than I thought were possible. Even the five
18 issues that Mr. Preis listed I think one -- it's really kind
19 of 2.1 issues or so, by my count, 'cause one is post and two
20 are basically done and two we've to bang out. And so, with
21 that, Your Honor, I just -- I think it is important to not
22 lose sight of just how far we have come, but also that we
23 have a real set of issues ahead, and to be clear, Your
24 Honor, even when these immediate issues come to rest, there
25 are also several Sackler-facing issues that the debtors feel

1 as fiduciaries, they need to make more progress on before
2 the (indiscernible) are actually sent out for a vote.

3 I alluded in the beginning to a few blanks and
4 brackets, some of those I think can stay in when we commence
5 solicitation, because it's essentially still the term sheet
6 phase. Some of them, frankly, we and others feel have to be
7 resolved, and so the good news is, I think we have several
8 more days before we would be ready to hand up an order, as
9 it were. Right now, my hope, of obviously at the end of the
10 day, as in all things I take direction from the Court, my
11 hope is that if everything works out in the best available
12 way, I don't think we need another hearing or a continuation
13 of the hearing, I think the evidence frankly should be
14 closed, the only witnesses were admitted with no request to
15 cross-examine, and there is no other evidence. There would
16 -- may be that we would need an hour or two on Tuesday if
17 things do not go -- I have no idea if the Court's available,
18 I know I'm being totally cheeky and I apologize, because
19 hearing several parties correctly note that there's just a
20 couple of things left before we're ready to potentially
21 start making 600,000 thumb drives to mail to every hamlet in
22 the country.

23 But that may not be the case. Things fall into
24 place, and maybe either we can submit something on
25 certification of counsel to parties A, B, C, D, and E who

1 are the effected parties are all okay with it. I would like
2 to end, before we turn to the Court's comments, 'cause I
3 hope not to speak again except to say yes, Your Honor, yes,
4 Your Honor, of course, Your Honor, absolutely, Your Honor,
5 great comment, Your Honor, to thank many, many parties for
6 truly extraordinary efforts. I think many of us have been
7 doing this for a long time, and this is not the confirmation
8 hearing, so I'll keep the valedictory lap short.

9 I have never seen teams work harder on any case in
10 my entire career then in this case, and the issues are very,
11 very fiercely fought and very passionately held, and
12 nonetheless we are just about there. (indiscernible) just
13 about ready to go to print, and then we remain ready,
14 willing, and able 24 hours a day to work with the very few
15 remaining objectors out of a case that has 11 ad hoc
16 committees and all that to get it over the goal line, but we
17 have crossed oceans, despite the fact that we have a river
18 or two in front of us.

19 So, with that framing, Your Honor, I will zip it,
20 and obviously turn to the Court's comments on the
21 solicitation procedures and disclosure statement.

22 THE COURT: Okay. Fine, thank you. I wrote most
23 of mine on the third note of the plan, and most of those
24 have now gone away, 'cause you filled in blanks or taken out
25 brackets in a lot of cases, so I don't have very many. The

1 reason I'm starting with the plan as opposed to the
2 disclosure statement is that in part, in evaluating the
3 disclosure statement, I think the Judge needs to make sure
4 that the plan and the disclosure statement are in sync, and
5 sometimes that requires understanding the plan and making
6 sure there isn't a glitch in the plan, as opposed to just
7 something that either the Court doesn't understand or that
8 isn't quite described the same way in the disclosure
9 statement.

10 So, I guess we began this hearing by talking about
11 the addition to the disclosure state -- or to the release
12 provision of other persons. I -- when people talk about
13 future claimants, they make -- they sometimes talk about two
14 different types of concepts, but it ultimately, to me, comes
15 down to due notice, and as you said, almost frankly I think
16 every person or his or her parent or guardian had notice of
17 this case of the bar date, and there's also an ample
18 procedure in place to give notice of the plan.

19 So, as far as notice is concerned, I think people
20 probably have enough to know that if they are -- they use
21 Purdue products before the plan is confirmed, they may well
22 be covered. I guess what I'm concerned about is that you
23 all go down an alley that says somehow the claims against
24 Purdue for what Purdue does in the future might be released
25 as to the Sacklers. To me, that's just -- first of all, I

1 can't imagine what those claims would be, unless the
2 Sacklers somehow would do what they're not going to do,
3 which is get involved again with Purdue, so I just hope
4 people don't spend a lot of time trying to find that type of
5 releasing party.

6 As far as the release goes itself, I'm just not
7 sure what the meaning is of some language in the second full
8 paragraph on page 110, on the black line of the fourth
9 united plan. It says notwithstanding anything herein to the
10 contrary, X nothing in the plan shall release any excluded
11 claim, and while nothing in this section, 10.6B shall A,
12 release any cause of action against any shareholder release
13 snapback parties or any holder of codefendant claims, and my
14 confusion is, is -- what is not being released in A, as far
15 as holders and codefendant claims? Is it just any holder or
16 is it just with respect to cause of action? I'm just -- is
17 it -- or does it matter?

18 I mean, I think you could say release any cause of
19 action against any shown or released snapback party or
20 against any holder or alternatively you could say release
21 any cause of action against any shareholder or released
22 snapback party or release any holder of codefendant claims?
23 But I think you probably need to choose which of those two
24 approaches to take, whether you use the word against in
25 front of any holder or whether you use the words or release

1 any holder.

2 MR. VONNEGUT: Yeah, Your Honor, this is Eli
3 Vonnegut (sound drops) intent is to exclude claims against
4 holders of codefendant claims from the release, so we will
5 make that clearer.

6 THE COURT: Okay. All right. That's fine. Then
7 the rest of my comments I wrote on the third amended plan,
8 so if you have that version, I think it's worth turning to
9 that. The administrative claims bar date definition is
10 right now 30 days following the effective date, and I think
11 you should add 30 days following the filing of notice of the
12 effective date. And then, on the same page, the definition
13 of allowed, right towards the bottom, it says except as
14 otherwise provided in the plan or any final order, that
15 amount of (indiscernible) claims shall not include interest
16 or other charges of such claim on or after the petition
17 date. Fine. And then it says, no claim of any person
18 subject to 502D of the bankruptcy code shall be deemed
19 allowed unless or until such person pays in full the amount
20 that it owes such debtor.

21 Or the plan administration trustee. I think
22 that's too much shorthand for purposes of 502D. 502D just
23 refers to certain amounts that are used in 502D. There are
24 others that need to be repaid, so I will change it to say
25 instead of that, it owes to for which it is liable as

1 provided under section 502D. So, it just track -- it goes
2 back to track the requirements of 502D.

3 MR. VONNEGUT: Understood. We'll (indiscernible)
4 it.

5 THE COURT: Okay, and then --

6 MR. PREIS: Your Honor, just to jump back one
7 second, on the effective date notice, to be clear, you said
8 at -- the debtor shall -- after they have filed the notice
9 of the effective date?

10 THE COURT: Yes.

11 MR. PREIS: Can we just add the words on the
12 docket?

13 THE COURT: Yeah, that's fine.

14 MR. PREIS: 'Cause I don't want there to be any
15 ambiguity --

16 THE COURT: That's fine. (overlapping
17 conversation) That's what I meant. So.

18 MR. PREIS: Thank you.

19 THE COURT: I appreciate you all have been working
20 on this all day, and worked on it some before the hearing
21 started today, but I just want to make sure there's not a --
22 inconsistency between the definition of co-defendant claim
23 and co-defendant defensive rights. Because there is this
24 agreed carve out in respect of co-defendant defensive
25 rights, but co-defendant claim, that definition refers to,

1 among other things, contribution, indemnification,
2 reimbursement, setoff, or recoupment. So, I just -- you
3 just need to make sure that that definition is not working
4 across purposes of the underlying which you have on
5 codefendant rights.

6 MR. VONNEGUT: Understood, Your Honor, we've been
7 working on that throughout the course of the day.

8 THE COURT: I'm assuming you are, I just wanted to
9 highlight it.

10 MR. VONNEGUT: Thank you, yes. We are -- we're
11 attempting to make clearer the division effectively between
12 offensive rights and defensive rights.

13 THE COURT: Right.

14 MR. VONNEGUT: So, there's -- there will be
15 amended language on this issue filed in the next plan.

16 THE COURT: Okay. Okay, the next comment is on
17 the definition on page 33 of the shareholder settlement
18 agreement. And this is described as the settlement
19 agreement to be entered into on or prior to the effective
20 date. Now, I think everyone has been assuming, including
21 the debtors, that it will be disclosed no later than the
22 agreement itself, the (indiscernible) will be disclosed in
23 the last filed plan supplemented at the latest. So, I don't
24 want this to operate contrary to that assumption. I think
25 maybe rather than saying to be entered into, that you say to

1 be effective upon. I mean, parties are going to agree to
2 it, I think, before then, although it will be effective on
3 the effective date. Am I missing something there?

4 MR. PREIS: Your Honor, let me make a suggestion.
5 There is no possible ambiguity in anyone's mind so let me
6 formally represent on the record on behalf of the debtors,
7 we are absolutely filing this formal agreement on the plan
8 supplement filing date, period, end of story. I would
9 prefer not to play with the definition if possible, because
10 the act of gathering signatures from all over the world and
11 all that, right, the (indiscernible) requires an agreed
12 form, I don't know the length of the regulatory timelag
13 between confirmation and effective and so, your concern is
14 that this -- someone doesn't accidentally take away the
15 obligation to file the final form on the plan supplement
16 date. It is -- there's no world in which that is going to
17 happen, and I would think that probably works, but if there
18 is language you feel strongly about, of course we will
19 accommodate.

20 THE COURT: Okay, well I think at a minimum you
21 should say in the definition, the form of which shall be
22 filed on the --

23 MR. PREIS: Perfect. That's literally perfect.

24 THE COURT: And then I also -- I -- the people who
25 -- I'm not as -- put it differently. I don't want to go

1 through an entire confirmation hearing and vote when people
2 are assuming this has been agreed to, and then hear that oh
3 no, we didn't agree to it. So, I -- that's really the
4 second aspect of this that I really get -- that gave me
5 pause. That it's entered into on the effective date. I
6 understand the signing, but I think there needs to be some
7 statement when you file it that this is subject to all the
8 other conditions to the effective date of the plan, the
9 parties agree to this.

10 MR. PREIS: Yeah, Your Honor, we agree and that
11 will happen. We are not going to file it and proceed to
12 confirmation unless it is in agreed form with each of the
13 required signatories, and let me tell you, if any
14 signatories counsel on this hearing disagrees with that,
15 they'd better speak now, 'cause that is how it is going to
16 be.

17 THE COURT: Okay. All right. And then the last
18 comment on the plan, this is like a ridiculously small one,
19 on page 71 there's just a typo in the fifth line down that
20 is stated twice. The word that.

21 MR. PREIS: Your honor, no -- we actually put that
22 typo into every one of our plans, I should note that you are
23 one of two out of 17 Judges who have caught it so far. So,
24 thank you.

25 THE COURT: Okay, well, I don't get a prize for

1 that, so. But I caught it anyway. The -- on the disclosure
2 statement, I am grateful that the debtors took the US
3 Trustee up on the suggestion to have a shorter summary at
4 the start of the plan. My experience is that most people
5 who get a disclosure statement read only that, and therefore
6 it's important. I note the statements made by Mr. Preis and
7 Mr. Eckstein, among others, who said we're not yet able to
8 recommend the plan, but we do recommend strongly moving
9 forward.

10 At some point, and that point needs to come soon,
11 I think that decision needs to be made, and there are a
12 couple of places in the disclosure statement, in the early
13 sections, that you have to address on that. It comes up on
14 page three and it comes up on page 19, and you just have to
15 come to grips with that. That's one of the changes that I
16 expect to be able to review. And if they do support it, on
17 page 33, instead of saying the plan is supported by a
18 litany, I would say the plan is supported by most of the
19 debtors' diverse prior constituencies, including the
20 official Creditors Committee.

21 And then if they're able to do that, then we'll
22 hyperlink to their letter. And as far as the letter is
23 concerned, the way I've normally dealt with those, where
24 they have not been ready at the disclosure statement hearing
25 is that I just asked committee counsel to forward the letter

1 in its proposed final form to chambers, as well as to the
2 key people who played a role in the case. I've never had to
3 have a hearing on it, as you said it's (indiscernible)
4 conceivable I would need to, but I think probably as with
5 all of the changes we're talking about here, emailing the
6 letter or in the case of the changes, a black line to
7 chambers with copies to the parties who have appeared today
8 probably will be sufficient.

9 I obviously have reviewed the documents carefully.
10 I think I know what needs to be said to make them adequate,
11 and parties are certainly free to send off an email saying
12 they don't like this language or that language, but
13 ultimately, I think I can decide from any of those in the
14 docket -- and the changes themselves as to whether any
15 further change needs to be made, so that's the way I propose
16 that we proceed here with, I guess reserving a potential
17 time, but this would really be at my discretion to have a
18 hearing on the additional changes early next week, and you
19 should speak to Ms. (indiscernible) just to reserve half a
20 day for that.

21 I -- we're going to page four. The fourth line in
22 the first full paragraph, (indiscernible) the negotiations
23 included a mediation, and I would add the phrase after
24 mediation, conducted by skilled neutral mediators. And
25 then, in the second to last line of that sentence which

1 begins among creditor constituencies while the second
2 primarily concerns settlement of the debtors causes of
3 action against the Sackler families, I would add after the
4 word debtors and third-party, and then add the word civil
5 causes of action against the Sackler families.

6 In the footnote four, it should add the word also,
7 where it says the debtors will, and then add the word also.
8 And then, a person that isn't really intimately involved
9 with the case might not know what the Truth Initiative
10 Foundation is, so I'd put in, because I -- this is my guess
11 as to what it is, the phrase for educational purposes after
12 that. If that isn't what the Truth Initiative Foundation
13 does, you should just put a -- that similarly lengthy
14 description of what it is.

15 And then, this is a much more important point. At
16 the very bottom of page four, the first full sentence says,
17 copies of the trust distribution procedures for each such
18 trust, and the PI trust is described below, is included in
19 the plan supplement, and the plan supplement, as defined, is
20 clear that there's more than one, so you know that they may
21 be filed at different times, but I think for this purpose,
22 you can't just rely on the definition. I think you should
23 say, copies of the final trust distribution procedures or
24 substantially final, I think it should actually say final.
25 For each such trust, and the PI trust is defined below, and

1 I'd rather say is, say will be included no later than in the
2 last filed plan supplement.

3 And then, you should say the last date to file
4 those. Or for those to be filed. Okay. No, I think that
5 will be dealt with later. On page nine, in two places there
6 are discussion of the resolution with the third-party payers
7 as far as the PI claimants, in the first full paragraph and
8 in the last full paragraph, depending on whether it's a non-
9 NAS or an NAS one, and I think again, what -- this is the
10 section that ordinary people are going to be reading, so
11 there's a sentence in both of those, it says, your
12 distribution may be further reduced on account of certain
13 liens held by healthcare insurance companies, also known as
14 third-party payers or TPPs or liens held by state insurance
15 programs, and then I would add in both cases, against you.
16 So, they know that this money that was paid to you would
17 actually be subject to a lien. It's not like it's being
18 taken from you and given to someone else that doesn't
19 already have a lien on your assets.

20 MR. VONNEGUT: Judge -- Your Honor, can we add the
21 against you after the word held, so it actually modifies
22 held instead of programs? I actually think that's probably
23 a good -- grammatically better place for it.

24 THE COURT: Yeah, that's fine. Sure. Yup.

25 MR. VONNEGUT: Thanks.

1 THE COURT: Okay, on page 11, the second full
2 paragraph, the last sentence says, additionally, if even
3 after reduction of your final judgement pursuant to the opt-
4 out procedures you ultimately receive more on your PI claim
5 than you would have received had you liquidated your PI
6 claim under the PI TPP, then your award will proportionately
7 reduce the awards of the other similarly situated qualified
8 individual victims. I think -- again, this is for the folks
9 who are looking at this for the first time, I think you need
10 to do the flip side of that, which is that your award will
11 also be pro rata reduced so that there's -- I think that's
12 what it -- I'm assuming that's what it is -- intended,
13 right, it works both ways? Your award gets reduced too, so
14 it's all equal pro rata? Or not?

15 MR. KLEIN: Your Honor, it's Darren Klein, can you
16 hear me?

17 THE COURT: Yes.

18 MR. KLEIN: I think the idea is that if you go to
19 the Court system and get an outside reward, then you would
20 have gotten in the trust, and then that gets multiplied by
21 the trust recovery, I think what the sentence is saying is,
22 the fact that you've gotten more than you would have through
23 the offering just means that the final trust money is lower,
24 and everybody else that didn't opt out (indiscernible).

25 THE COURT: Well, just answer this. It -- let's

1 say you get a judgement for \$100,000. But the pro rata
2 distribution from the trust is 20 percent. I'm just picking
3 these numbers out of the air. Is your \$100,000 judgement
4 going to get a \$20,000 recovery along with everyone else
5 getting their 20 percent?

6 MR. KLEIN: It will get reduced, yes.

7 THE COURT: All right. But, see the way that this
8 is worded, it just said others' rewards will be
9 proportionately reduced, at least the implication that yours
10 won't be. So that's what I'm referring to.

11 MR. KLEIN: I understand, Your Honor. I think we
12 can clean that up.

13 THE COURT: Okay.

14 MR. HUEBNER: Your Honor, for the avoidance of
15 doubt, this was actually intended to get a different point.
16 So I don't actually think it's -- you're just trying to add
17 another point.

18 THE COURT: Yeah, I know, I know. I just didn't
19 want to leave them with the impression --

20 MR. HUEBNER: Right, don't get --

21 THE COURT: -- they weren't getting a pro rata
22 recovery either.

23 MR. HUEBNER: Yes, understand. We'll add the
24 additional solution point.

25 THE COURT: Okay. And then in the last full

1 paragraph on this page, there is a sentence that begins at
2 the bottom, "In practice, a PI claimant without sufficient
3 evidence." I think it's sort of been practice that you just
4 say "thus" and instead of "high," it should say "higher."

5 And then on page 12, I really had a hard time
6 following the third full paragraph. I want to make sure.
7 Maybe I'm just misreading it. If you could give me a
8 moment. Yeah, this is, this is what confused me.

9 It says, and again, we're talking to people who
10 may not be represented by lawyers. It says "Non-NAS PI
11 claims liquidated under the Non-NAS PI TDP will be paid by
12 the PI Trust approximately 2 percent of the amount they
13 would be awarded by a court if such PI claims were litigated
14 in the tort system."

15 I think what was confusing to me there and I think
16 would be even confusing even more so to a non-lawyer, is the
17 word "awarded." The suggestion there is that some how
18 you're going to get a much bigger judgment in the state --
19 in tort court -- in the tort system. I don't think that's
20 the intention. In fact, I'm pretty sure it isn't. What is
21 the intention is that whether you get a judgment in the
22 state court system or the non-opt out, given the amount of
23 claims, it's about a 2 percent recovery.

24 This leaves the impression that the, you know, the
25 recovery would be a lot higher in the state court in the

1 tort system and I don't think that's the case. I think that
2 you've already made the case that it might actually be lower
3 and further, because of the aggregate amount of claims
4 asserted, the pro rata recovery under the plan for all
5 claims, whether they're opt-outs or not, will be roughly 2
6 percent of what would be awarded if they were in the court
7 system.

8 MR. HUEBNER: Your Honor, we'll clean that up.
9 Obviously, its more, probably better to say the face amount
10 of any judgment received in a non-bankruptcy proceeding,
11 which would then be reduced and treated pursuant to the TDP,
12 something like that to make clear that the reduction surely
13 obtains in both places you're not going to get, you know, 48
14 times or 50 times the recovery in the tort system.

15 So, it's a great catch and we'll work with the
16 relevant parties to clean it up. I can't imagine that
17 anyone disagrees and thank you for catching it.

18 THE COURT: Okay. Okay. We talked about the
19 hospital claims and hospital trust earlier in the hearing.
20 I guess I had an issue, besides what we talked about there
21 as far as NOAT, the disclosure statement issued, but the
22 Debtors making sure that anyone who would fall in the
23 definition of the holder of a hospital claim would be able
24 actually, to effectively assert one assuming they met that
25 definition. And again, that doesn't need to be in the

1 disclosure statement, but it obviously needs to be the case
2 or it creates an issue for the plan by the time it comes up
3 for confirmation.

4 But in the third full paragraph, I think this may
5 be related to that point. First, in the second full
6 paragraph, it says for the holder of a hospital claim to be
7 eligible to receive a payment from the hospital trust, they
8 must either, one or two." It says have filed proof of claim
9 prior to July 30, or two, and it says be (x) a non-federal
10 acute care hospital as defined by CMS or (y) a non-federal
11 hospital or hospital district as required by law to provide
12 inpatient acute care and/or fund the provision of inpatient
13 acute care, in each case, (x) and (y), that is listed on the
14 National Registry of Hospitals maintained by the American
15 Hospital Registry.

16 So then you go to the next paragraph and it says
17 that the algorithm is based on unreimbursed charges incurred
18 by the hospital and then applies a waiting formula based on
19 the hospital's service area, opioid-related patient
20 population, opiated-related unreimbursed charges and whether
21 the holder of a hospital claim either timely filed a proof
22 of claim or is a safety net hospital under the Cares Act and
23 that phrase, "or is a safety net hospital under the Cares
24 Act," is different than the language in the preceding
25 paragraph in that enumerated clause two, which doesn't say

1 that. It says be (x) a non-federal acute care hospital or
2 (y) a non-federal hospital et cetera.

3 Now maybe as a practical matter it's the same
4 thing, but the definitions just don't mesh, I think. Okay.

5 MR. KLEIN: Thank you, Your Honor. Let us take
6 this one away and discuss a possible way to address this.

7 THE COURT: All right. Okay. I expect this will
8 change. On page 15, there are a couple of references when
9 you're talking about the National Opioid Abatement Trust to
10 the table in and then it just says "zero." Just want to
11 make sure you address that.

12 And then about six lines from the bottom of that
13 paragraph that's headed "National Opioid Abatement Trust,"
14 it says "And the specific abatement uses of the fund shall
15 be determined by the State -- and State should be
16 capitalized -- with input from a consulting body that
17 includes broad local government representation." If that,
18 if that consulting body has been further defined, I think
19 you should reference to where it is further defined.

20 If not, and if it's an issue that, you know, is
21 just covered by a term sheet for now, I think you should at
22 least say how that body is intended to be selected. But
23 hopefully, it's going to be defined soon.

24 Now, that may tie into the school district issues.
25 Frankly, I've always had a hard time understanding their

1 concerns, but I think state governments are often acutely
2 aware and sensitive to school districts since that's where
3 the voters are, but maybe I'm missing something. But you'd
4 think that they might be part of the consulting body or at
5 least have input with the consulting body because, again, my
6 experience, but maybe New York is different, is that school
7 districts are where people win and lose elections.

8 There's a small typo in the definition of Tribe
9 Trust or discussion of Tribe Trust on page 16. And then, I
10 think this is important, to say in this letter statement, in
11 the second full paragraph on page 16, it says "Each
12 Abatement Trust shall monitor the use of funds received by
13 Abatement distribution recipients in accordance with the
14 authorized abatement purposes and prepare and deliver the
15 master disbursement trust for publication in annual reports
16 on the disbursement used, and to the extent feasible and
17 cost-effective efficacy of Abatement distributions."

18 And that's fine. I wouldn't change any of that
19 language, but I don't see anywhere in the disclosure
20 statement how the -- a discussion of how the plan
21 contemplates that the key provision of the plan, which is
22 that this money in each Abatement Trust be actually used for
23 abatement is enforced. And I think it's probably worth
24 putting a sentence in here to state how that requirement can
25 be enforced if it's not satisfied, if it's not met.

1 Mr. Huebner, am I being clear on that point?

2 MR. HUEBNER: Your Honor, you are, this from Mr.
3 Vonnegut who is in charge of this.

4 THE COURT: Okay.

5 MR. VONNEGUT: Your Honor, this is Eli Vonnegut of
6 Davis Polk, let me chime in. That will be addressed in the
7 Trust documents for NOAT and the Tribe Trust.

8 THE COURT: No. I understand. This is for the
9 ordinary people that aren't going to want to read the Trust.
10 I just think it's important for everyone to understand that,
11 you know, if you're a, if you're a, you know, someone who
12 really cares about abatement and you read in this report
13 that it's going to reduce taxes or pay for the maintenance
14 of a golf course, you know, that's a public golf course, you
15 have somewhere to go to say you're not in compliance with
16 the plan that, whoever --

17 MR. VONNEGUT: Yes.

18 THE COURT: So I think I would put a sentence in
19 here that just says that.

20 MR. VONNEGUT: Very much understood. We'll make
21 that very clear, Your Honor.

22 THE COURT: Okay. All right. I'm coming to the
23 end of this as my focus was really on the short form,
24 primarily. On page 17, the last full paragraph that begins
25 "Prior to," there's a sentence, there's a line four lines

1 down, "Exacting review of their claims." I think I would
2 just say the Debtors and their Estate's claims.

3 Oh, and then on the top of page 19, the first full
4 sentence says the Sackler families will have no role in the
5 selection of the new co-managers or in any other aspect of
6 NewCo's governance or operations. I would add after NewCo
7 "or TopCo's governance or operations," assuming that's true.

8 MR. HUEBNER: That is true.

9 MR. VONNEGUT: That is true.

10 THE COURT: Right. Page 23, the second full
11 paragraph, the last line begins "To individual claimants"
12 and it says "and does not describe procedures for making
13 distribution to individual claimants, I'd add a comma and
14 then "which are described elsewhere in this disclosure
15 statement."

16 And then on Page 25, the paragraph that starts at
17 the bottom of the page, third line, at the underline is the
18 word "undoubtedly," and I changed that to "likely." And on
19 the top of Page 26, the fourth line down, it says the word
20 "massively" and I changed to "materially."

21 You're all probably grateful that I've come to
22 most of the end of this. But I think there should be on
23 what was, what is the third plan, Page 37, before the
24 heading "G. Confirmation of the Plan," so after the last
25 paragraph that just quotes the releases, you should have a

1 cross-reference to the section later where you discuss the
2 analysis by the Debtors of why they have agreed to the
3 releases because you're just left hanging with the
4 description of the releases, but I think you need to see a
5 cross-reference as to where they go and, you know, why, why
6 they're chosen.

7 On Page 38, this goes to the voting procedures,
8 this is a point that I made earlier with the U.S. Trustee's
9 counsel, I think in the voting procedures, you should state
10 that it is the Debtor's position and they will -- or the
11 Debtors will argue to the Bankruptcy Court that if there are
12 no votes cast in a particular class, the class will be
13 presumed to have accepted the plan.

14 I also think you should say here that because of
15 the deemed one dollar allowed amount for voting purposes,
16 effectively, a two-thirds' vote will be required for
17 approval unless a different dollar amount for claims is
18 established. And you say that elsewhere so use that same
19 language -- not in this document, but in a different
20 document.

21 Now, I raised the point on who determines the
22 privilege. That would be on Page 124. If you can't get to
23 that before -- the agreement on that before this goes out,
24 fine. If you can, you should add it here as to, you know,
25 in the case where the privilege issue is not before a court,

1 specifically, you know, what is the procedure for contesting
2 a privilege assertion? And then the cross-reference that I
3 said you should put in earlier, is related to the discussion
4 that begins on page 142. It is headed "Evaluation of the
5 Settlement with the Sackler families."

6 And, in addition to the language that we talked
7 about that should be added in the discussion during the
8 hearing with Mr. Troop, I really do think you should make a
9 reference to the St. Paul Fire and Marine Insurance Company
10 versus PepsiCo case, 884 F.2d 688 (2nd Circuit 1989) and
11 probably also In Re Cabrini Medical Center, 489 B.R.7 (SDNY
12 2012).

13 When you talk at Page 158 about piercing the veil,
14 it's really, you know, it's one thing and you do discuss
15 this. We spent some time on it with Mr. -- with Professor
16 Lipson too, to discuss the merits of whether you can pierce
17 a veil or not. But there's a second issue, which is is that
18 claim even a third-party claim as opposed to an estate
19 claim, which I think people who are worried about giving up
20 estate -- I mean non-estate, third-party claims should be
21 made aware of. They may not, and probably don't have such a
22 claim or standing to bring it because it's an estate claim.

23 MR. HUEBNER: Well, what -- Your Honor, I actually
24 believe I said at the time, I might have been misheard, that
25 would add those references.

1 THE COURT: Okay.

2 MR. HUEBNER: But let me confirm, again, for the
3 record that we will add them. More information is always
4 better and for the avoidance of doubt, we actually think we
5 know the law pretty well. We've all done quite a bit in
6 this case and many others and we believe completely that we
7 think we reserve estate remedies and claims that others are
8 not giving up.

9 THE COURT: Right. Okay. So those are my
10 comments and I don't want to stint on the proposed order
11 because I have a fair number of questions and comments on
12 that too, but again, my usual practice where there are
13 changes to be made in a disclosure statement is to take the
14 changes as they're emailed to chambers with, you know,
15 copies having been sent to the parties who appear to have
16 taken an interest in the disclosure statement, the
17 disclosure statement hearing, in an objection or a statement
18 in support, or just a statement, and I generally know, since
19 we're down to the short strokes, whether those address my
20 comments or other's comments, or to the extent there is
21 something new, whether it's clear and not over-reaching.

22 My experience is that if you give people a little
23 bit of time, a day or so, to react either before you send
24 them in or after you send them in, so that they can promptly
25 email the Court, that's enough. I hope it would be enough

1 here and that we wouldn't need to have any additional
2 hearing time on it. And that's how I'd like to proceed
3 although, the Debtors, as I said, should reserve a half a
4 day, I guess, next week.

5 And that really relates also to the first issue
6 that I had on the proposed order which has the slightly
7 revised schedule toward confirmation in it.

8 You have, and this is fine, a June 10th
9 solicitation deadline with the footnote to it. But my
10 question, I guess, is when does -- this is a practical
11 question, when does the order need to be entered so that you
12 know what the final changes are for you to meet that
13 deadline?

14 MR. ROBERTSON: I'm sorry, Your Honor, this is
15 Christopher Robertson. I'm from Davis Polk. Our current
16 guidance from Prime Clerk is that we need to have the order
17 entered and the materials final by tomorrow close of
18 business in order to meet that deadline. But, you know, we
19 can go back and talk to them about that.

20 THE COURT: That doesn't mean, I mean people have
21 been talking about spending some -- I mean I don't think
22 that's a fact, frankly. People have been talking about
23 potentially reserving time next Tuesday for example.

24 MR. ROBERTSON: I understand, Your Honor. Those
25 are just the latest emails I have from Prime Clerk.

1 THE COURT: Okay. Well, again, June 2, I'm sorry,
2 June 10 is certainly more than the 28 days that the code
3 requires in the rules. So you do have some flexibility with
4 the June 10 date. But I just don't -- I want everyone to
5 understand and I think you-all should let them know as soon
6 as you know what that last date is --

7 MR. ROBERTSON: Understood.

8 THE COURT: -- to have appropriate notice under
9 Rule 2002.

10 On this schedule, I had a couple, I had three
11 comments. First, well, I'll just put a hold on that one
12 because it comes up later too. There's a, there's an entry
13 here that says "Plan supplement filing deadline" and I just
14 don't think it's accurate in all respects.

15 First, on Page 9 it says that it will be nine days
16 prior to the plan objection deadline and here it's July 7th,
17 and the plan objection deadline is July 19th, so that's more
18 than nine days. And then I'm not sure that the footnote is
19 accurate where it says that the PI Trust documents deadline
20 is seven calendar days. That is right. You agreed to that,
21 right? Anyway, I just you to make sure that that's the
22 date, seven calendar days prior to the plan supplement
23 filing deadline.

24 MR. ROBERTSON: We did agree to that, Your Honor.

25 THE COURT: Okay. All right. So I think the

1 thing to reconcile is the reference on Page 9 in paragraph
2 18 with the plan supplement filing deadline here.

3 And then I think you should add to this. It says
4 "deadline to file the confirmation brief and omnibus reply
5 to plan objections," which is a week before the confirmation
6 hearing, that should also be the deadline to file
7 declarations of witnesses within a party's control and to
8 provide the Court with those as well as the joint agreed
9 exhibit book.

10 I'm not going to put in the rest of the schedule
11 here. The parties can work that out. If they can't, they
12 should set up a conference with me to get to that point, you
13 know, the meeting conferred designated witnesses, et cetera,
14 that's covered elsewhere. But I think it's worthwhile to
15 put that in here that the time to file witness declarations
16 and profile them in the exhibit book to chambers.

17 Okay. So in Paragraph 18, either it or this
18 charge needs to be adjusted as to the deadline.

19 I think at this point with the solicitation
20 package, are we just talking about a letter from the
21 Committee? Is there anyone else that thinks that they have
22 a letter in mind?

23 MR. HUEBNER: Your Honor, there's a very short
24 Debtor cover letter that we filed on the docket during this
25 hearing. I think it's two pages long.

1 THE COURT: Well, no, if it's a Debtor cover
2 letter, that's fine. But, again, the -- on, well, these
3 pages aren't numbered, but the solicitation and voting
4 procedures, which is Page 21 on the top, Exhibit A,
5 C(1)(iii) says at the Debtor's election, a cover letter and
6 substantially the form annexed as Exhibit 13 to the
7 disclosure statement, that's fine.

8 MR. HUEBNER: Your Honor, let me take this one.

9 THE COURT: And then it says "and/or a cover
10 letter from the Creditor's Committee, and/or counsel to any
11 mediation party." And the only reason I'm asking about this
12 is I'm fine with reviewing a Committee letter. If everyone
13 else wants to chime in, I think, you know, I don't think
14 that's intended. I just want to make sure that someone is
15 not going to be sending everyone a letter, you know, sort of
16 out of left field, other than the Committee, which isn't out
17 of left field because it's been clearly aired and discussed.

18 MR. HUEBNER: Yeah, Your Honor. Let me jump in on
19 that one. We are definitely not contemplating any other
20 letters from any other parties. We certainly respect and
21 understand that many parties have very strong views, but in
22 the Debtor's Solicitation package, once in a great while
23 there's a UCC letter, although it's relatively rare. I have
24 never seen other parties and as you know from the last
25 hearing, we said absolutely not to the Sacklers and agreed

1 only to hyperlink and I think this issue is done. So I
2 don't think there will be anything else.

3 THE COURT: Right. Okay. So I would just take
4 this out. I don't think you should even contemplate it
5 because even though you're saying it's a Debtor's election,
6 other people will want to see it and it's unlikely that it
7 would ever go in and it's unlikely that anyone even wants it
8 to go in.

9 MR. HUEBNER: Yeah. Happy to take it out. It's a
10 better approach.

11 THE COURT: Okay. Why don't I raise this issue
12 now? The -- this is on the master solicitation ballot
13 materials, Page 32, it refers to two different solicitation
14 methods, the master method and the direct solicitation
15 method. And there are two later documents. One is Page 265
16 of 286, which is the letter to attorneys representing
17 holders of claims and it deals with master ballots.

18 And if you go to Page 265, it defines the term,
19 the solicitation directive deadline, which is the deadline
20 to say whether you're doing direct solicitation or master
21 ballot. And it's already happened. It's April 5. So it's
22 in the past tense.

23 Now, if you go back to Page 32, it describes the
24 two methods, i.e. master ballot or direct solicitation as if
25 you can still make this election. In (b) on Page 32, it

1 says if a firm prefers to have each of its eligible clients
2 cast their own vote, you know, fine, you can do it that way.
3 But it's already done, right? Or am I missing something?

4 MR. HUEBNER: Your Honor, on that point, if you
5 look at Page 30 in G, you'll see reference to the definition
6 of what this directive's deadline is, 4 p.m. on April 5th,
7 2021 and such deadline may be extended by the Debtors in
8 their sole discretion --

9 THE COURT: Right.

10 MR. HUEBNER: -- in consultation with the
11 Creditors Committee. And in practice, we have extended the
12 deadline for certain parties. And my understanding is this
13 master ballot option has been very well received by other
14 creditors.

15 THE COURT: Okay. That's fine, but I think you
16 need to have some outside date because otherwise, you're not
17 going to leave enough time for the individuals to vote.
18 Right? This is a determination that the lawyers are allowed
19 to make in consultation with their clients. But you've got
20 to have, you've got to have at least enough time under the
21 bankruptcy rules so if they say, oh, no, we decided we're
22 not going to do that, that the individuals will do it.

23 MR. HUEBNER: I think we can do that, Your Honor.
24 I think the way the procedure works if an individual and
25 their lawyer both cast a ballot, the individual ballot

1 controls, so you're not freezing out any creditor. But the
2 point is taken and we can clean it up.

3 THE COURT: Okay. And I think -- I would
4 therefore add to the chart on page 4 the solicitation
5 directive deadline and just say it's April 15th unless --
6 I'm sorry, April 5th, unless expressly extended and in any
7 event to be no later than and then pick the date so that
8 there's enough time for the client to vote. Okay?

9 In the -- I think this is apropos in the
10 discussion that Professor Lipson that we had earlier, on
11 page 38 of the materials, there's this important notice to
12 holders of personal injury claims regarding requirement to
13 file additional claim information and option to liquidate.
14 I think you just have to adjust that so that's it's clear
15 that the additional claim information deadline is if you're
16 an opt-out and you'll be deemed to be an opt-out if you
17 don't take that action by the 150 days to -- I'm sorry.
18 You'll be deemed to be not an opt-out unless you opt-out by
19 that deadline, the 150-day deadline.

20 And you should make it clear that the information
21 doesn't need to be provided if you have opted out, but
22 otherwise, does need to be provided by that deadline. So
23 that, I think in addition to the disclosure statement,
24 should be in this form, which is more likely to be read by
25 them than the disclosure statement.

1 MR. HUEBNER: Your Honor, sorry. I think you might
2 have meant to say you don't need to provide if you were
3 opting in --

4 THE COURT: Yeah, I got it backwards.

5 MR. HUEBNER: You said opting out.

6 THE COURT: Exactly. If you opt-out, you don't
7 need to provide the information.

8 MR. HUEBNER: Okay.

9 THE COURT: But if you either -- well, if you
10 don't opt-out and/or don't do anything, you must provide the
11 information and you'll be deemed to be in the streamlined
12 procedures. Again, what we discussed with Mr. Lipson.

13 I think you need to say it here in these documents
14 in addition to the disclosure statement.

15 MR. KLEIN: Marshall, it's Darren. Judge Drain is
16 correct.

17 MR. HUEBNER: Not a surprise. Let's keep rolling.

18 THE COURT: Okay. By the way, I don't know what's
19 more respectful, Professor or Mister, I think it depends on
20 whether you got an A or a C in the class in referring to
21 Professor or Mister.

22 Yeah, it comes up also on Page 67, I mean 66 in
23 these materials.

24 Okay. Last comment on the forms is on all of the
25 non-voting notices, that's both the no recovery and

1 unimpaired, you need to add, and I think it's right before
2 Exhibit 1 in each case, so I'm just using Page 137 as an
3 example, but it's on each of those notices, a statement to
4 the effect that -- and I would underline it as well as bold
5 it -- the Debtors will contend and the Court may accept that
6 if you don't object to confirmation of the plan, or if you
7 object and your objection is denied, the plan and the
8 foregoing provisions will be binding on you.

9 It's important that I say "if the Court may"
10 because, obviously, that issue hasn't been decided yet, but
11 I think it's important here to make it clear as part of this
12 notice that your opportunity not to be bound by the notice
13 is to object to confirmation.

14 And then we talked about this section already.
15 Page 265 refers to the solicitation deadline. If you have
16 been extending it, you need to say, it should say on April
17 5, 2021, or such date -- or such later date as agreed by I
18 think you say the Debtors in consultation with the
19 Committee. But then I think you should have an absolute
20 outside date, you know, provided that such date shall be no
21 later than, and then pick the date so there's enough time
22 for the individual client to vote while you, you know, on
23 the plan since there won't be a master ballot.

24 And then the last point is -- I think we should
25 say this. I don't think you need to change all the other

1 notices which refer to a telephonic confirmation hearing.
2 But on Page 3 on the Notice of Hearing, which is Page 277 of
3 the procedures document, it says in the first full paragraph
4 "Such confirmation hearing shall be conducted
5 telephonically" and I would add "and by Zoom for those will
6 actually participate in the hearing," so the comma before
7 "and" and then after "hearing."

8 And Mr. Huebner, we will get to see you then,
9 right?

10 MR. HUEBNER: You will, Your Honor. And I
11 appreciate the Court's indulgence, although I actually did
12 everybody a favor by not seeing me today, but obviously as I
13 advised the Court before the hearing, we have been forced --

14 THE COURT: And you asked because you were going
15 to be working on documents and taking phone calls and the
16 like while your colleagues were speaking, which is fine, and
17 I granted permission.

18 MR. HUEBNER: Thank you, Your Honor. So, Your
19 Honor, a couple of quick things from my end and I think we
20 can bring it home. Number one, with respect to the Court's
21 concern before about when the Sacklers sign, I do actually
22 want to slightly backtrack or at least create more
23 optionality. It is actually entire possible that either the
24 Debtors or the UCC or the AHC or the MSG or the Sacklers or
25 the same states who have come on board, any one of those

1 parties might actually insist that the documents actually be
2 executed prior to the plan supplement date or the plan
3 confirmation date so that there's no possible question that
4 the documents are done and binding and enforceable subject
5 only to conditions expressed in.

6 I was not suggesting to the contrary. I just
7 didn't want to accidentally get boxed in. So I do want to be
8 clear --

9 THE COURT: I'm fine with that. I'm happy with
10 that. I certainly don't want to waste time if people
11 haven't actually agreed to it.

12 MR. HUEBNER: Exactly.

13 THE COURT: It won't be effective unless the plan
14 is confirmed and goes effective on the other conditions to
15 effect --

16 MR. HUEBNER: Exactly. I just wanted to telegraph
17 it a little bit more broadly that it may actually well be
18 that we or other parties demand actual John Hancock's prior
19 to Date X or Date Y and we'll just see where that goes.

20 THE COURT: Okay.

21 Mr. HUEBNER: Number two Your Honor, another
22 housekeeping matter, the amended plan litigation procedures
23 order says this order in Paragraph 8, this order will
24 terminate and cease to have any effect if and only if the
25 disclosure statement is not approved at the disclosure

1 statement hearing on May 26th or such other date as set by
2 the Court.

3 THE COURT: Right.

4 MR. HUEBNER: So what I would ask, I think we can
5 do this orally if it's the Court's pleasure. I don't think
6 we need to trouble the State with the expense of yet another
7 order. I am guessing that somewhere between Friday and
8 Tuesday after we go beat the daylights out of Prime Clerk,
9 although to their credit, to be fair, they have to, you
10 know, make something like 600,000 thumb drives. This is, in
11 fact, launching an entire thing of gargantuan proportions,
12 but we don't have a lot of time here to finish up these
13 issues and get documents in. That said, I know that we
14 don't want to have to double and triple bounce on this order
15 permission.

16 THE COURT: Are you recommending that the outside
17 date is Tuesday?

18 MR. HUEBNER: No, I would go a couple of days
19 longer than that because as long as it's clear to everybody,
20 we may not even have them until Tuesday. We'll see.
21 Hopefully, we will have them on Tuesday, but just not to
22 have you bounce it and issue yet another order and spend
23 another few thousand dollars on a form of order, why don't
24 we just set it for next Thursday right now, as a bench
25 ruling --

1 THE COURT: Right.

2 MR. HUEBNER: -- if that's okay with the
3 understanding so that everyone is clear, we probably almost
4 surely cannot wait until next Thursday to begin
5 solicitation.

6 THE COURT: Right.

7 MR. HUEBNER: But just to not have to redo this
8 order yet again. This is an outside, outside date and then
9 we will work with the parties as soon as we're done here to
10 set the real outside date and then work like -- move heaven
11 and earth to get the few remaining issues swatted away so we
12 can finalize and resubmit the documents.

13 THE COURT: Right. I will authorize it that the
14 date will be Thursday, although, again, the parties should
15 be assuming that as far as the schedule is concerned, they
16 really need to get this done by Tuesday, if not before.

17 MR. HUEBNER: Thank you, Your Honor. We'll read
18 Thursday, June 3 as the new sort of date in paragraph 8 of
19 the confirmation of the litigation procedures order.

20 THE COURT: Right. That's fine. Okay.

21 MR. HUEBNER: I think, unless somebody on my team
22 corrects me, because I assume we're fiercely taking notes
23 and that everyone is a-okay perfect with those issues, Your
24 Honor, I think there is nothing further from the Debtors
25 other than to get back to work on the very tiny number of

1 presolicitation business close-down points and obviously the
2 Court's comments and other concessions, representations made
3 today, the co-defendant, revised language, et cetera, and I
4 think it is absolutely -- I think I speak on behalf of a
5 hundred people on the phone the fact that you're catching
6 typos and footnotes on Page 237 of a document filed at 6:20
7 this morning is actually just -- I don't even know what word
8 to use. I don't usually use adjectives, so I'm not going to
9 fill one in. But everyone -- I'm confident I can speak for
10 everyone and just say wow and thank you.

11 We will take the energy and momentum of
12 today as a whole and get the rest of the stuff done and then
13 we will keep working with every single party not yet in the
14 deal between now and confirmation, both in and out of the
15 now two mediations that are scheduled or to be scheduled for
16 the upcoming days or weeks or already underway.

17 THE COURT: Okay. Last word. I'm not sure if
18 I've actually said this. It's certainly implicit in my
19 comments and my rulings on the objections, some of which
20 I've granted, some of which I've denied. As far as the
21 document stands today, with the changes that have been set
22 forth on the record, the document does, in fact, provide
23 adequate information under Section 1125 of the Bankruptcy
24 Code to those who would be voting to accept or reject the
25 plan. And proposed order and attached solicitation

1 documents and other notices also would satisfy the
2 applicable Bankruptcy rules. Obviously as Mr. Price said,
3 one needs to come to ground at least from the Debtors plan
4 prospective of the key remaining open terms. Hopefully,
5 that will not be just the Debtor but the other key parties
6 to get their consent and, again, I trust that I will be able
7 to review that language as well as the changes that would be
8 conforming to what's the record today within the time that's
9 contemplated.

10 So clearly, the parties really should be focusing
11 on those key, what I'll call important, secondary deal
12 points and just get me the document in time with the
13 proposed order.

14 As far as the remaining major deal point, again,
15 I'm very grateful to Judge Chapman for already being at work
16 and do urge the parties, again, to take advantage of that
17 and the positions that you have to make the tough decisions.
18 This is what an official really lives to do and I'm sure
19 they'll do it.

20 And it's also critical, I don't think there's
21 anything more important for the Sackler parties then to
22 focus on, with her direction and insight, which is always,
23 in my experience, extraordinary, to listen to her carefully.
24 All right. Thank you.

25 (Whereupon these proceedings were concluded at 4:54 PM)

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RULINGS

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C E R T I F I C A T I O N

I, Sonya Ledanski Hyde, certified that the foregoing
transcript is a true and accurate record of the proceedings.

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